

11/2006-01081-CC A-R3-CW  
IN THE CRIMINAL COURT OF TENNESSEE AT MEMPHIS

THE THIRTIETH JUDICIAL DISTRICT

STATE OF TENNESSEE

ORIGINAL

vs.

Case No. 05-03038

VERN BRASWELL,

Defendant.

FILED 8-16-06  
WILLIAM R. EBY, CLERK  
BY C. Leary D.D.

TRANSCRIPT OF EVIDENCE

Volumes 7 of 11 Volumes

DECEMBER 5, 2005

THE HONORABLE JOSEPH B. DAILEY, PRESIDING JUDGE

APPEARANCES

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FILED

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Clerk of the Court

Reported by:  
Katherine Knowles  
Court Reporter

Vol. 7

TABLE OF CONTENTSVOLUME ONEPAGE

1		1
2		2
3		9
4	Appearances	13
5	Table of Contents	
6	List of Exhibits	
7	Style and Caption	
8	<b>Monday, December 5, 2005</b>	
9	Pre-trial Motions	14
10	Voir Dire Examination and Jury Selection	25
11	(VOLUME TWO)	
12	<b>Tuesday, December 6, 2005</b>	
13	<b>VERN BRASWELL</b>	
14	Voir Dire Examination (By Mr. J. Bailey)	185
15	Jury Sworn	187
16	Reading of Indictment and Entry of Plea	187
17	Opening Statements (By Ms. Weirich)	187
18	Opening Statements (By Mr. W. Bailey)	192
19	<b><u>STATE'S PROOF</u></b>	
20	<b>PEARLINE WASHBURN</b>	
21	Direct Examination (By Ms. Weirich)	199
22	<b>ANGELA SNYDER</b>	
23	Direct Examination (By Ms. Weirich)	227
24	<b>JESSICA GREEN</b>	
25	Direct Examination (By Ms. Weirich)	236

TABLE OF CONTENTSVOLUME ONEPAGE**ROOSEVELT COLEMAN**

Direct Examination (By Ms. Weirich)	243
Cross-Examination (By Mr. J. Bailey)	247

**LIEUTENANT JACKSON**

Direct Examination (By Ms. Carnesale)	250
Cross-Examination (By Mr. J. Bailey)	264
Redirect Examination (By Ms. Carnesale)	270

**BABA TANZY**

Direct Examination (By Ms. Carnesale)	271
Cross-Examination (By Mr. W. Bailey)	283

**MATT HAMM**

Direct Examination (By Ms. Carnesale)	285
Cross-Examination (By Mr. W. Bailey)	293
Redirect Examination (By Ms. Carnesale)	295

**OFFICER GALLOWAY**

Direct Examination (By Ms. Weirich)	296
Cross-Examination (By Mr. J. Bailey)	308

**SERGEANT KJELLIN**

Direct Examination (By Ms. Carnesale)	313
Cross-Examination (By Mr. J. Bailey)	323
Redirect Examination (By Ms. Carnesale)	328

**SERGEANT MERRITT**

Direct Examination (By Ms. Weirich)	328
-------------------------------------	-----

TABLE OF CONTENTSVOLUME ONEPAGE**LIEUTENANT MILLER**

Direct Examination (By Ms. Weirich)	362
Cross-Examination (By Mr. W. Bailey)	368
Redirect Examination (By Ms. Weirich)	369

**(VOLUME THREE)****Wednesday, December 7, 2005****DARRELL BURTON**

Direct Examination (By Ms. Carnesale)	384
Cross-Examination (By Mr. J. Bailey)	389

**JERRY BROWN**

Direct Examination (By Ms. Carnesale)	390
Cross-Examination (By Mr. J. Bailey)	395

**BENJANETTE STURDEVANT**

Direct Examination (By Ms. Carnesale)	396
Cross-Examination (By Mr. J. Bailey)	403

**LIEUTENANT MITCHELL**

Direct Examination (By Ms. Carnesale)	407
Cross-Examination (By Mr. J. Bailey)	414

Jury-Out Hearing	419
------------------	-----

**OFFICER FAIR**

Direct Examination (By Ms. Weirich)	424
Cross-Examination (By Mr. W. Bailey)	432
Redirect Examination (By Ms. Weirich)	434

TABLE OF CONTENTSVOLUME ONEPAGE**CAROLYN CHAMBERS**

Direct Examination (By Ms. Weirich)	435
-------------------------------------	-----

**OFFICER WALLS**

Direct Examination (By Ms. Carnesale)	444
---------------------------------------	-----

**Jury-Out Hearing****OFFICER WALLS**

Direct Examination (By Ms. Carnesale)	448
---------------------------------------	-----

Cross-Examination (By Mr. J. Bailey)	450
--------------------------------------	-----

**OFFICER WALLS**

Direct Examination Continued (By Ms. Carnesale)	451
---	-----

Cross-Examination (By Mr. W. Bailey)	455
--------------------------------------	-----

**WILLIAM MANGUM**

Direct Examination (By Ms. Weirich)	457
-------------------------------------	-----

Cross-Examination (By Mr. J. Bailey)	468
--------------------------------------	-----

Redirect Examination (By Ms. Weirich)	475
---------------------------------------	-----

Recross Examination (By Mr. J. Bailey)	476
--	-----

**DOCTOR CARTER**

Direct Examination (By Ms. Carnesale)	478
---------------------------------------	-----

Cross-Examination (By Mr. W. Bailey)	518
--------------------------------------	-----

Redirect Examination (By Ms. Carnesale)	542
---	-----

**(VOLUME FOUR)****Thursday, December 8, 2005****KRISTIE WOODS**

Direct Examination (By Ms. Weirich)	563
-------------------------------------	-----

Cross-Examination (By Mr. J. Bailey)	618
--------------------------------------	-----

Redirect Examination (By Ms. Weirich)	629
---------------------------------------	-----

TABLE OF CONTENTSVOLUME ONE

	<u>PAGE</u>
Jury-Out Hearing	
<b>VERA COLE</b>	
Direct Examination (By Ms. Weirich)	633
Cross-Examination (By Mr. W. Bailey)	637
<b>MAGRA HARDEN</b>	
Direct Examination (By Ms. Weirich)	640
Cross-Examination (By Mr. W. Bailey)	645
Court's Ruling	653
<b>KRISTIE WOODS</b>	
Redirect Examination Continued (By Ms. Weirich)	658
Recross Examination (By Mr. J. Bailey)	660
Further Redirect Examination (By Ms. Weirich)	662
<b>SHERONDA SMITH</b>	
Direct Examination (By Ms. Carnesale)	667
Cross-Examination (By Mr. J. Bailey)	678
<b>VERA COLE</b>	
Direct Examination (By Ms. Weirich)	682
Cross-Examination (By Mr. J. Bailey)	690
Redirect Examination (By Ms. Weirich)	693
Recross Examination (By Mr. J. Bailey)	695
<b>MAGRA HARDEN</b>	
Direct Examination (By Ms. Weirich)	698
Cross-Examination (By Mr. W. Bailey)	703
Motion for Judgment of Acquittal	706

TABLE OF CONTENTSVOLUME ONE

	<u>PAGE</u>
State Rests	709
(VOLUME FIVE)	
<u>DEFENSE'S PROOF</u>	
GLEN WRIGHT	
Direct Examination (By Mr. J. Bailey)	722
Cross-Examination (By Ms. Weirich)	729
VERN BRASWELL	
Direct Examination (By Mr. J. Bailey)	730
Cross-Examination (By Ms. Weirich)	788
DOCTOR SCHWARTZ	
Direct Examination (By Mr. W. Bailey)	816
Jury-Out Hearing	
DOCTOR SCHWARTZ	
Direct Examination (By Mr. W. Bailey)	826
Cross-Examination (By Ms. Carnesale)	827
Redirect Examination (By Mr. W. Bailey)	829
Court's Ruling	835
DOCTOR SCHWARTZ	
Direct Examination Continued (By Mr. W. Bailey)	838
Jury-Out Hearing	843
DOCTOR SCHWARTZ	
Direct Examination Continued (By Mr. W. Bailey)	846
Cross-Examination (By Ms. Carnesale)	847
Redirect Examination (By Mr. W. Bailey)	858
Recross Examination (By Ms. Carnesale)	858

TABLE OF CONTENTSVOLUME ONEPAGE

(VOLUME SIX)

**Friday, December 9, 2005**

Motion for Judgment of Acquittal 872

Jury Charge Discussion 872

Defense Rests 873

Closing Arguments (By Ms. Carnesale) 873

Closing Arguments (By Mr. W. Bailey) 884

Closing Arguments (By Ms. Weirich) 899

Jury Charge 926

Alternates Excused 941

Jury Questions 942

Verdict 945

Certificate of Reporter 948



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

INDEX OF EXHIBITS

<u>NO.</u>	<u>STATE/DEFENSE</u>	<u>ID/EVIDENCE</u>	<u>TO/DESCRIPTION</u>	<u>PAGE</u>
1	State	Evidence	P. Washburn, photo	202
2	State	Evidence	P. Washburn, photo	207
3	State	ID	P. Washburn, photos	312
3	State	Evidence	Officer Walls, photos	452
4	State	Evidence	P. Washburn, check and letter	217
5	State	Evidence	P. Washburn, money	218
6	State	ID	P. Washburn, note	218
6	State	Evidence	K. Woods, note	617
7	State	ID	P. Washburn, document	219
7	State	Evidence	W. Mangum, document	467
8	State	ID	P. Washburn, document	219
8	State	Evidence	W. Mangum, document	466
9	State	ID	P. Washburn, document	219
9	State	ID	W. Mangum, document	466
10	State	Evidence	A. Snyder, photo	235
11	State	Evidence	J. Green, tape	241
12	State	Evidence	R. Coleman, report	245
13	State	Evidence	Lt. Jackson, sketch	259
14	State	Evidence	B. Tanzy, photo	278
15	State	Evidence	B. Tanzy, photo	279

INDEX OF EXHIBITS

	<u>NO.</u>	<u>STATE/DEFENSE</u>	<u>ID/EVIDENCE</u>	<u>TO/DESCRIPTION</u>	<u>PAGE</u>
1					
2					
3					
4	16	State	Evidence	Officer Galloway,	298
5				crime scene sketch	
6	17	State	Evidence	Officer Galloway,	304
7				photo	
8	18	State	Evidence	Officer Galloway,	304
9				photo	
10	19	State	Evidence	Officer Galloway,	304
11				photo	
12	20	State	Evidence	Officer Galloway,	304
13				photo	
14	21	State	Evidence	Officer Galloway,	304
15				photo	
16	22	State	Evidence	Officer Galloway,	304
17				photo	
18	23	State	Evidence	Officer Galloway,	304
19				photo	
20	24	State	Evidence	Officer Galloway,	304
21				photo	
22	25	State	Evidence	Officer Galloway,	308
23				two bottles	
24	26	State	Evidence	Sgt. Merritt,	335
25				Advice of Rights form	

INDEX OF EXHIBITS

	<u>NO.</u>	<u>STATE/DEFENSE</u>	<u>ID/EVIDENCE</u>	<u>TO/DESCRIPTION</u>	<u>PAGE</u>
1					
2					
3					
4	27	State	Evidence	Sgt. Merritt, CD	358
5	28	State	Evidence	Lt. Miller, statement	365
6	29	State	Evidence	J. Brown, phone record	391
7	30	State	Evidence	B. Sturdevant,	397
8				phone records	
9	31	State	Evidence	Dr. Carter, photo	483
10	32	State	Evidence	Dr. Carter, photo	485
11	33	State	Evidence	Dr. Carter, photos	489
12	34	State	Evidence	Dr. Carter, photos	489
13	35	State	Evidence	Dr. Carter, photo	491
14	36	State	Evidence	Dr. Carter, necklace	492
15	37	State	Evidence	Dr. Carter, photo	495
16	38	State	Evidence	Dr. Carter, photo	497
17	39	State	Evidence	Dr. Carter, photo	498
18	40	State	Evidence	Dr. Carter, photo	499
19	41	State	Evidence	Dr. Carter, photo	503
20	42	State	Evidence	Dr. Carter, photo	504
21	43	State	Evidence	Dr. Carter, photo	511
22	44	State	Evidence	Dr. Carter, photo	513
23	45	Defense	Evidence	Dr. Carter, photo	525
24	46	State	ID	K. Woods, earrings	618
25	46	State	Evidence	S. Smith, earrings	676

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

INDEX OF EXHIBITS

<u>NO.</u>	<u>STATE/DEFENSE</u>	<u>ID/EVIDENCE</u>	<u>TO/DESCRIPTION</u>	<u>PAGE</u>
47	Defense	ID	V. Braswell, vibrator	771
47	Defense	Evidence	V. Braswell, vibrator	777
48	Defense	ID	V. Braswell, butterfly	772
48	Defense	Evidence	V. Braswell, butterfly	777
49	Defense	ID	V. Braswell, bullet	772
49	Defense	Evidence	V. Braswell, bullet	777
50	Defense	ID	V. Braswell, Nubby G	773
50	Defense	Evidence	V. Braswell, Nubby G	777
51	Defense	Evidence	V. Braswell, whips	777
52	Defense	Evidence	V. Braswell, bullet	777
53	State	Evidence	V. Braswell, photo	805
54	State	Evidence	V. Braswell, photo	805

1 THE COURT: Bring out the defendant, please.

2 MR. J. BAILEY: Your Honor, may I address the  
3 Court?

4 THE COURT: You may.

5 MR. J. BAILEY: Prior to our bringing the jury in,  
6 may we do a quick voir dire of the defendant, please?

7 THE COURT: You may. Step around.

8

9 VERN BRASWELL

10 called as a witness, being first duly sworn, was examined and  
11 testified as follows:

12 VOIR DIRE EXAMINATION

13 BY MR. J. BAILEY:

14 Q For the record, would you state your name, please?

15 A Vern Glover Braswell.

16 Q And you are the defendant in the matter of State versus  
17 Vern Braswell; is that correct?

18 A Yes.

19 Q Mr. Braswell, over the past almost a year, you've had  
20 meetings with me and various other attorneys; is that correct?

21 A That's correct.

22 Q And most recently you've had meetings with myself and  
23 law partner and father Walter Bailey; is that correct?

24 A That is correct.

25 Q And is it your decision, sir, to go to trial here today

1 and to stand trial on the charges of murder in the first  
2 degree?

3 A It is.

4 Q Now I've not communicated any offers from the State to  
5 you anyway, but it is your decision not to plead to the Court  
6 but to stand trial and have a jury make the decision; is that  
7 correct?

8 A It is.

9 Q And likewise, sir, we've discussed with you your right  
10 to remain silent and your right to not be compelled to testify  
11 against yourself; is that correct?

12 A That is correct.

13 Q And after discussing the matter with us, is it likewise  
14 your voluntary decision that you will take the stand in this  
15 case?

16 A That's correct.

17 MR. J. BAILEY: Thank you, Your Honor.

18 THE COURT: Step down.

19 MR. W. BAILEY: Your Honor, one other housekeeping  
20 matter. I spoke with Dr. Schwartz and he can come in on  
21 Thursday.

22 THE COURT: Okay. Good. Thank you. Bring in the  
23 jury, please.

24 MR. J. BAILEY: Your Honor, one thing before the  
25 jury comes in, which is there are people here who weren't here

1 yesterday so we call for the rule.

2 THE COURT: The rule is in effect. Both sides  
3 need to be aware of that.

4 MS. WEIRICH: On that note, could we approach,  
5 Judge?

6 THE COURT: You may.

7 (Bench conference commenced.)

8 MS. WEIRICH: We had subpoenaed Mary Wallace, the  
9 defendant's mother. I've never met her. I don't know if  
10 she's in the courtroom or not.

11 MR. J. BAILEY: She is in the courtroom.

12 MS. WEIRICH: If she could please be excused?

13 THE COURT: Is she a fact witness?

14 MS. WEIRICH: Yes, sir.

15 THE COURT: She will need to be excused until she  
16 testifies.

17 MR. J. BAILEY: Yes, sir.

18 (Said bench conference concluded.)

19 (Jury present.)

20 THE COURT: Good morning, ladies and gentlemen.

21 Let me first ask you to stand and raise your right hands to be  
22 sworn in as jurors and alternate jurors in this cause.

23 (Jury sworn.)

24 THE COURT: Thank you. You may be seated.

25 Ms. Carnesale, you may read the indictment.

1 (Indictment read by Ms. Carnesale.)

2 (Plea of not guilty entered by Mr. J. Bailey.)

3 THE COURT: Opening statements, Ms. Weirich.

4 MS. WEIRICH: Thank you, Your Honor. Sometimes  
5 things aren't as they seem. Sometimes things might appear one  
6 way but as you delve deeper into them, you find the opposite  
7 to be true.

8 On November 5th, 2004, dispatchers with the 911  
9 Communications Bureau in this building received a call around  
10 four o'clock in the morning. It was a call from the  
11 defendant, indicating that his wife was in the tub and wasn't  
12 breathing. The 911 dispatcher, who you will hear from and  
13 you'll listen to the tape, asked repeatedly for the defendant  
14 to get his wife out of the tub. He either couldn't do it or  
15 wouldn't do it, but the phone call goes on for some minutes  
16 while the dispatcher is trying to calm the defendant, trying  
17 to plead with him to get Sheila Braswell out of the tub that  
18 became her grave that morning.

19 Fire personnel are dispatched and sent to the home of  
20 the defendant, the victim and their two children.

21 THE COURT: Excuse me.

22 CAMERAMAN: I am going to fix the TV.

23 THE COURT: Well, we can do it later. Thank you.

24 MS. WEIRICH: When they arrived, they find the  
25 defendant standing at the front door. He motions them back to



1 the bedroom, shows them where the bathroom is and they find  
2 her dead, stiff body. They try to resuscitate her. It's all  
3 to no avail.

4 By this time officers of the Memphis Police Department  
5 are arriving. There are paramedics on the scene. The  
6 defendant has called various friends; some close to him,  
7 others you would categorize as casual acquaintances, but he's  
8 been calling and calling and calling and calling these people  
9 throughout the morning. And you'll listen to people from the  
10 Bellsouth records keeping department, the Nextel records  
11 keeping department. And you'll hear from some of these people  
12 that he called. Yes, they knew the defendant. They didn't  
13 know his wife. They weren't real close to him, hadn't seen  
14 him in a while. They weren't really sure why he was calling  
15 them at four o'clock in the morning to tell them his wife was  
16 dead.

17 All of these law enforcement personnel are in the home.  
18 The defendant eventually gets around to calling Pearline  
19 Washburn. And you'll hear from Ms. Washburn in a moment.  
20 She's the mother of Sheila Braswell. She comes to the house,  
21 along with other family members. And the officers and the  
22 personnel are talking to the defendant. What happened? How  
23 did this petite, otherwise healthy looking woman wind up dead  
24 in the bathtub?

25 Well, says the defendant, many times that morning and

1 many times to follow to anyone that would ask, we were having  
2 sex around 1:30 in the morning. We went to bed. She got up  
3 to take a bath. I went to sleep. Around 3:30 or 3:45 I woke  
4 up, she was floating in the tub, stone cold dead. I don't  
5 know what happened. Sometimes things aren't as they seem  
6 though.

7 The paramedics that were on the scene that you'll hear  
8 from and the fire personnel, who are trained to save lives,  
9 noticed hemorrhaging, the tops of the eyes of Sheila Braswell.  
10 They noticed discoloration around her neck. And the water in  
11 the tub was very warm, warm enough at four o'clock in the  
12 morning for an adult to get in and take a bath. It didn't  
13 feel like water that had been sitting there for two and a half  
14 hours. You don't see hemorrhaging in the eyes of a drowning  
15 victim. Sometimes things just aren't as they seem.

16 Sheila Braswell's body is transported to the Regional  
17 Forensic Center. An autopsy is performed. You'll hear from  
18 the medical examiners who performed that autopsy. You'll see  
19 pictures. You'll hear them describe the process of cutting  
20 open a dead body to try to determine what went wrong. They'll  
21 tell you that the cause of death wasn't drowning. It was  
22 manual strangulation. The defendant held his hands around her  
23 neck as long and as hard as he needed to, to make sure all of  
24 her life was taken from her.

25 After that ruling from the medical examiner's office,

1 the defendant was arrested the next day. He was at a football  
2 game. He was taken into custody by the Memphis Police  
3 Department Homicide Bureau. And then the police department  
4 went to work, trying to figure out why something -- why  
5 something that seemed to be one thing was turning into  
6 something else, why something that seemed to just be an  
7 accidental horrible death of a young lady was taking the curve  
8 into a homicide investigation. And the detectives who you'll  
9 hear from began doing their job, the job we want them to do,  
10 the job we pay them to do, the job they take very seriously.

11 They found out that the defendant had a girlfriend,  
12 Kristie Woods, a young nurse. You'll hear from Ms. Woods.  
13 She never would come in and talk to the police, but you'll  
14 hear from her this week. They found out that Ms. Sheila  
15 Braswell had filed for divorce, but yet she was still living  
16 in the home and yes, they were lopsided between trying to  
17 reconcile and trying -- she was lopsided between trying to  
18 reconcile her marriage, trying to keep it together and trying  
19 to break free.

20 You'll hear that Sheila Braswell and the defendant's  
21 girlfriend had a meeting. They met face-to-face. You'll hear  
22 that the defendant appeared to live one life but in actuality  
23 was living another. Sometimes things aren't as they seem.

24 And you'll hear that just like the morning of November  
25 5th, 2004, when he squeezed her neck as long and as hard as he

1 needed to, to kill her, he had done it before in 1996 when  
2 they lived in Millington. Police were called. Pictures were  
3 taken. He got mad at Sheila Braswell and choked her.

4 And you'll hear from Kristie Woods that in June of  
5 2004, around September/October 2004, he got mad at her, too.  
6 And on both those occasions, he put his hands around her neck  
7 and choked her to get the message across.

8 He got the message across to Sheila Braswell in the  
9 early morning hours of November 5th, 2004, when her bathtub  
10 became her grave. At the end of this trial, we will ask you  
11 to convict the defendant of what he did, murder in the first  
12 degree.

13 THE COURT: Mr. Bailey.

14 MR. W. BAILEY: Thank you. May it please, Your  
15 Honor, ladies and gentlemen of the jury, let me first make a  
16 point. This is opening statement. This is not the  
17 presentation of evidence. And I want to caution you again,  
18 that I wasn't there on the night that Ms. Sheila Braswell  
19 died. Neither were the prosecutors. We don't know what  
20 occurred. That's going to be an area in which you, ladies and  
21 gentlemen, will have the function and duty of determining.

22 This phase of the trial is known as the opening  
23 statement for one purpose. And that purpose is for not -- is  
24 not for us to try and convince or persuade you. We do that  
25 during the closing arguments. The purpose of the opening

1 statement is to give you an outline of what we lawyers --  
2 that's all we are in this trial, we're lawyers, we're not  
3 witnesses -- what we lawyers think and anticipate the proof  
4 will show. That's all we're doing in an opening statement.  
5 And you're not to -- and I want to caution you again not to  
6 start making up your mind, forming opinions, taking sides  
7 until you've heard the proof. Sometimes as human beings we  
8 can do that as the trial develops.

9 Now, I like to use the opening statement as a -- as an  
10 outline or as a preview to a movie, as an example, to explain  
11 to you how -- what our spin is in terms of how this trial is  
12 going to develop. Now one of the things that we know is that  
13 Mr. Braswell had a history in which he sought an education to  
14 the extent of going to Memphis State University -- or  
15 University of Memphis. You can tell my age because I still  
16 refer to it as Memphis State University.

17 But in any event, he went on and obtained a degree in  
18 education where he became a school teacher back in 1994,  
19 public servant, dedicated law-committed public servant. He  
20 also went a little further and got his master's degree at the  
21 University of Memphis. In the interim, in the meantime, he  
22 and Mrs. Sheila Braswell had married and had two lovely  
23 children.

24 The Braswells were an adventure-seeking couple. You'll  
25 find that their adventure seeking included motorbike riding

1 and cliff jumping. But in addition to that, their thrill  
2 seeking experiences also included kinky sex. And again, this  
3 is not a case or trial about the morality of what they did  
4 sexually. That's up to them in the confines of their bedroom.  
5 You're here to look at it and we're here to expose it because  
6 he's charged with murder in the first degree.

7 As part of that kinky sex experience of theirs, they  
8 got turned on to an experience called asphyxiation or  
9 asphyxiafilia. That means getting the maximum arousal out of  
10 your sexual experience through choking. And you're going to  
11 hear that though it's not widespread, it's something that  
12 occurs. And you'll hear that from the medical examiner that  
13 it's done in two ways. One way is called autoasphyxiation,  
14 which means that a person, proof will show, chokes him or  
15 herself with a restraining device such as a belt or -- the  
16 belt or a loop of a bathrobe or cord or other devices that one  
17 can wrap around his or her throat and gain a state of  
18 euphoria, that means a state of giddiness or light-headedness  
19 while you -- the party is indulging him or herself  
20 individually through masturbation.

21 The other form is when you do it as a couple. And  
22 that's called erotic asphyxiation, which you're going to hear  
23 from, from a well-known national sex expert. And in this  
24 erotic asphyxiation, again the object simply being to gain the  
25 highest arousal that one can possibly achieve through being

1 giddy or light-headed while you're having sex, undergoing  
2 choking.

3 Now it's a very risky sexual experience but the parties  
4 again, not passing any judgment on morality or what they do in  
5 their bedroom, but the parties assume that risk. They take  
6 that risk. They share that risk. And let me quickly point  
7 out and hasten and say with emphasis that as part of that  
8 erotic asphyxia experience, it's no intent on the part of  
9 either party for a death to result. The death results  
10 accidentally as it did in this case.

11 There were numerous case reports about autoasphyxiation  
12 where a person is choking him or herself and death results.  
13 And there are cases in which couples are involved and death  
14 results. But the parties themselves willingly and  
15 consensually -- just like they consensually are having sex --  
16 they consensually get involved in this process.

17 Now one thing that leaps out at you is that when the  
18 couples are involved, the proof will show that there is no  
19 intent of premeditation for a death to result. Nobody wants  
20 to murder and nobody wants to be murdered on that flip side.  
21 The person who is being choked doesn't anticipate dying, and  
22 the person doing the choking doesn't anticipate killing.  
23 That's not part of the sexual experience.

24 Now it's our contention that the proof is going to show  
25 that these parties had been indulging in this sexual activity

1 for over a span of about two or three years. They have been  
2 doing it a long time. This wasn't any fly-by-night or recent  
3 experience on the part of the Braswells. And you might not  
4 like, as the proof will show, what they did in terms of this  
5 risky sexual escapade, this kinky sex of theirs, this kinky  
6 way they had of expressing themselves. But that's not what  
7 you're here for, to pass judgment on that. They're not  
8 seeking -- this is not a moral-approval trial. You're here to  
9 see one thing, whether she died from an accidental choking or  
10 whether that choking resulted with premeditation and  
11 intentional.

12 Now there are certain things that we promised you and  
13 certain things you've committed yourselves to do. And one was  
14 which that you said that you would abide by the rule of  
15 presumption of innocence. And we feel that the proof is going  
16 to show that not only does Mr. Braswell maintain that -- and  
17 is draped in that presumption of innocence right now, but when  
18 all of the proof is in, the proof is going to show that he  
19 still remains intact with that presumption of innocence.

20 Now one thing I've -- I do want to point out is that  
21 the proof is going to show that he had a girlfriend. But the  
22 proof also is going to show that Mr. Braswell and his  
23 girlfriend Ms. Woods themselves indulged that asphyxiated  
24 sexual erotic experience, that they were somewhat involved in  
25 the practice. You're going to hear that the practice occurred



1 between them at odd places, between Mr. Braswell and  
2 Ms. Woods, the girlfriend. But again, you're not here to  
3 evaluate and pass judgment on his having a girlfriend. That's  
4 not the question before you. That's not your concern. And  
5 the reason we're talking about the girlfriend in terms of what  
6 the proof is going to show is because it will show you -- it  
7 will open up more, this whole weird or kinky world of  
8 asphyxiation.

9 Now the proof is going to show, we don't deny it, that  
10 after he discovered that she, Ms. Sheila Braswell, was in  
11 distress and he couldn't revive her, that she had passed  
12 beyond revival in terms of she was dead, that the normal  
13 signals that she would give in terms of for him to release her  
14 from a choke-hold position weren't given. And that's when he  
15 released her and determined that she had been fatally -- or  
16 had reached a point of fatality. But again, it may have been  
17 bad judgment, the proof is going to show, but not anything  
18 intentional as part of the erotic experience that they  
19 themselves employed and underwent, that they enjoyed in the  
20 comforts of their home. Might be weird, might be kinky.  
21 That's what they did.

22 Now he panicked. And he did make several phone calls.  
23 He called everybody in the world that he could think of. And  
24 you'll find though that his behavior wasn't consistent with  
25 somebody who had just committed murder, that his behavior and

1 his conduct after he discovered that Ms. Sheila Braswell was  
2 dead was consistent with a person who himself was in a state  
3 of bereavement, distress, and didn't know what to do but call  
4 around and call around and call around. This was no cool and  
5 deliberate cold and calculated man. This man was in a state  
6 of bewilderment, in a state of distress.

7 And you'll find that he may not have been totally  
8 candid with the police. He didn't want to share, the proof --  
9 is going to show -- this kinky side of their lifestyle. So he  
10 wasn't candid about it after the police did the investigation.  
11 But that's not what he's charged with. He's not charged with  
12 not being perfectly candid with the police. He's charged with  
13 premeditation and an intentional killing.

14 Now let me, before I sit, explain to you that I always  
15 like to look upon the courtroom with a tree in the middle of  
16 it. And that's that tree of reasonable doubt. And it's our  
17 position that unless that tree is moved by the prosecutor with  
18 proof, cogent and convincing proof, not speculation and  
19 conjecture, but proof beyond a reasonable doubt that as long  
20 as that tree sits there and is not removed by proof beyond a  
21 reasonable doubt, then your mission is going to be clear.  
22 Your duty will be without confusion. It will be one of not  
23 guilty.

24 Now I'm going to sit and then of course we'll start  
25 putting on proof. And I want to again say to you

1 respectfully, please don't take anything that I've said as  
2 proof in this case because I wasn't there. But conversely,  
3 don't take anything this fine prosecutor had to say in her  
4 opening statement as proof because she wasn't there either.  
5 She doesn't know anymore about this case as I told you during  
6 voir dire than you ladies and gentlemen. She's got a theory.  
7 And that's all it is, a theory, an educated guess. I  
8 appreciate your indulgence and thank you very much.

9 THE COURT: Call your first witness.

10 MS. WEIRICH: Thank you. State calls  
11 Pearline Washburn.

12  
13 PEARLINE WASHBURN

14 called as a witness, being first duly sworn, was examined and  
15 testified as follows:

16 DIRECT EXAMINATION

17 BY MS. WEIRICH:

18 Q Good morning.

19 A Good morning.

20 Q Would you, please, tell the jury your name?

21 A Pearline Washburn.

22 Q Could you spell your first and last names for the court  
23 reporter?

24 A P-E-A-R-L-I-N-E. W-A-S-H-B-U-R-N.

25 Q Do you live in Memphis, Tennessee?

1 A Yes, I do.

2 Q Where do you work?

3 A First Tennessee.

4 Q How long have you worked there?

5 A 34 and a half years.

6 Q What do you do at First Tennessee?

7 A Relationship manager.

8 Q Is that the job you've held for 34 and a half years?

9 A No. That particular job has been about the last five  
10 years.

11 Q Okay. Do you know Sheila Braswell?

12 A Yes.

13 Q How do you know her?

14 A Sheila was my daughter.

15 Q When was she born?

16 A August 28th, 1970 -- '72.

17 Q Has she died?

18 A Yes.

19 Q When did she die?

20 A November 5th, 2004.

21 Q Was there a funeral?

22 A Yes.

23 Q Do you remember what day that was?

24 A Thursday, November -- it was Veteran's Day, the  
25 following week, the following Thursday.

1 Q Was it here in Memphis?

2 A Yes.

3 Q I pass you a picture.

4 MS. WEIRICH: Your Honor, may I approach the DOAR?

5 THE COURT: You may.

6 Q Do you recognize that?

7 A Yes.

8 Q What is it?

9 A It's a picture of Sheila that was taken at my wedding,  
10 April 5th, 2003.

11 Q April 5th, 2003?

12 A Yes.

13 Q Before November 5th, 2004, when was the last time you  
14 saw your daughter?

15 A Tuesday, November 2nd.

16 Q Did she come to your work?

17 A Yes.

18 Q At the time of her death was she married?

19 A Yes.

20 Q Who was she married to?

21 A Vern Braswell.

22 Q Do you see him in the courtroom this morning?

23 A Yes.

24 Q Would you point to him for me, please, and tell me what  
25 he's wearing?

1           A       He has on a suit.

2                   MR. J. BAILEY: Your Honor, I stipulate this is  
3 Mr. Vern Braswell.

4                   THE COURT: All right.

5           Q       How long were they married?

6           A       Ten years.

7                   MS. WEIRICH: Your Honor, at this time I'd ask  
8 that photograph be marked Exhibit 1.

9                   MR. J. BAILEY: No objection.

10                  THE COURT: All right.

11                   (Exhibit No. 1 was marked and filed.)

12                  MS. WEIRICH: May I publish it?

13                  THE COURT: You may.

14           Q       You said they had been married for ten years?

15           A       Yes.

16           Q       At the time of her death?

17           A       Yes.

18           Q       Did they have children?

19           A       Yes.

20           Q       How many?

21           A       Two boys.

22           Q       What are their ages?

23           A       Eight and six.

24           Q       What are their names?

25           A       William and Miles.

1 Q Did Sheila work?

2 A Yes.

3 Q What did she do for a living?

4 A She was a physical therapy assistant and an  
5 occupational therapist.

6 Q Did she attend school to obtain those jobs?

7 A Yes, she attended Shelby State for her PTA and UT  
8 Memphis for her occupational therapist degree.

9 Q And when did she obtain her occupational therapist  
10 degree?

11 A December 1995.

12 Q Where did she work?

13 A For TLC, Tender Loving Care on Sycamore View off of  
14 Macon Road in Memphis.

15 Q Did she enjoy her work?

16 A Very much so.

17 Q I want to turn you back to November 5th, 2004. Were  
18 you home the early morning hours of that day?

19 A Yes.

20 Q Were you asleep?

21 A Yes.

22 Q Who was home with you?

23 A My husband and my nephew Sammy.

24 Q Are they in the courtroom today?

25 A My husband is.

1 Q Okay. Did you get a phone call?

2 A Yes.

3 Q Do you remember what time it was?

4 A According to my clock 4:34.

5 Q Who was it?

6 A Vern.

7 Q The defendant?

8 A Yes.

9 Q What did he tell you?

10 A He told me that Sheila was not breathing and I said,  
11 Vern, call 911. He said I have and I said well what's wrong?  
12 And he said that he had fallen asleep around 1:30 and when he  
13 woke at 3:30, he found her floating in the tub of their home.

14 Q What did you do when he told you that?

15 A My husband and I got dressed and proceeded to go to  
16 their home in Cordova.

17 Q And was their home in Shelby County, Tennessee?

18 A Yes.

19 Q When you got there, who was there?

20 A Well, there was several emergency vehicles that were  
21 outside the home. There were several cars. And as my husband  
22 and I entered the house, I met my son in the hallway. And he  
23 told me that --

24 MR. J. BAILEY: Object to the hearsay.

25 THE COURT: Overruled.



1 Q Thank you. What did he tell you?

2 A He told me that he couldn't -- they wouldn't let him  
3 see his sister and that he couldn't cry. He was just numb  
4 because we were just taken back that it -- that we had gotten  
5 that phone call and that it had happened.

6 Q You said there were many cars in the driveway. Were  
7 there -- were there fire trucks there? Do you remember? Were  
8 there ambulances? Were there police cars?

9 A There were police cars. There was an ambulance there.  
10 I don't recall if the fire department was there or not. I  
11 just remember the red lights flashing.

12 Q Okay. Were most of the people inside of the home  
13 wearing some type of law enforcement uniform?

14 A A couple of them I think they did.

15 Q Okay. Were there other friends and family there by the  
16 time you got there?

17 A Yes.

18 Q You said your son was there?

19 A Yes.

20 Q Who else was there that was not a law enforcement  
21 personnel, if you remember?

22 A There was a gentleman there by the name of Brian but I  
23 was not familiar with Brian. Vern's mother Mrs. Wallace was  
24 there. His Aunt Linda was there. And Vern. Those were the  
25 only ones I remember there at that time.

1 Q Okay. When you arrived where was the defendant?

2 A Sitting on the sofa in the living room.

3 Q What was he wearing?

4 A A white terry cloth robe that was wet.

5 Q Okay. How do you remember that it was wet?

6 A Because when I sat beside him, I was holding his hand  
7 because I sat beside him to ask him what happened. And I felt  
8 the robe -- the robe was wet when I -- my hand was beside his  
9 leg and my leg.

10 Q Okay. Was he crying?

11 A Yes.

12 Q Okay. Was he able to talk or was he too upset to talk?

13 A He was talking and he was babbling that he kept saying  
14 I should have never let her get in the tub. I should have  
15 never let her get in the tub. And I -- I wasn't understanding  
16 why he was saying that.

17 Q Okay.

18 A And I asked him what happened. And he told me that  
19 they had had casual sex around 1:30 and he had fallen asleep  
20 and when he woke up around 3:30, that was when he found her  
21 floating in the tub. And he said sometimes after sex her hip  
22 would kind of contract and she would get in the tub to kind of  
23 turn the jets on to kind of ease the muscles. But he said  
24 that was -- that was often. She did that often so I couldn't  
25 understand why he kept saying I should have never let her get

1 in the tub because if that's what she normally did why was  
2 this time so different. I just couldn't visualize the  
3 differences.

4 Q I'm going to pass you another picture, Ms. Washburn.  
5 Do you recognize that?

6 A Yes.

7 Q What is it?

8 A It's the tub in their home.

9 Q The tub in their bedroom?

10 A In the bathroom off of the bedroom.

11 Q That's the defendant and Sheila Braswell's bathtub?

12 A Yes.

13 MS. WEIRICH: Judge, at this time I'd ask that be  
14 moved into evidence as Exhibit 2.

15 THE COURT: All right.

16 (Exhibit No. 2 was marked and filed.)

17 MS. WEIRICH: May I publish it?

18 THE COURT: You may.

19 Q Would you say that this is a normal bathroom bathtub?

20 A It's a little oversized. I mean, it's --

21 Q How oversized?

22 A It's not a jacuzzi tub itself. It has the jacuzzi  
23 flasks, but it's not a traditional jacuzzi that's up high and  
24 all of the different flasks around it or jets around it.

25 Q How big was your daughter?

1 A 4-11, about 125, 130.

2 Q Not very big?

3 A No, she was very small in stature.

4 Q In the top corner of that picture, are those  
5 eyeglasses?

6 A Yes.

7 Q Whose eyeglasses are those?

8 A Sheila's.

9 Q Okay. Did she wear those often or seldom?

10 A 24 hours, seven days a week.

11 Q The picture that the jury just saw of Ms. Braswell from  
12 your wedding day, she's not wearing them?

13 A No.

14 Q What was the difference that day?

15 A She had contacts in that day.

16 Q Okay. But normally she wore what?

17 A She wore her glasses. She slept in them. They were  
18 with her 24 hours a day. Her vision was not very, very strong  
19 so she basically slept in them at all times so wore them at  
20 all times.

21 Q Okay. Had you ever seen the defendant carry his wife?

22 A You mean pick her up?

23 Q Lift her up? Hold her?

24 A Yeah.

25 Q He was able to do that?

1 A Yes.

2 Q There was nothing about her size or weight that limited  
3 him from being able to carry her or lift her?

4 A No.

5 Q When had you seen him do that?

6 A During her pregnancies and then horsing around, horsing  
7 around joking. You know, we play around.

8 Q Okay. How long did you stay at the house that morning?

9 A I think it was probably around 7:30 when we left  
10 because my parents were not aware of what had happened because  
11 I -- I couldn't call them over the phone to tell them so my  
12 husband and I left her home to drive to South Memphis to tell  
13 my parents.

14 Q When you say "you couldn't tell them over the phone,"  
15 was there a phone to use that you just didn't want to tell  
16 them over the phone?

17 A Yes.

18 Q Are they elderly?

19 A Yes.

20 Q In the time that you were there, you said that you  
21 first got the call at 4:30 in the morning. What time did you  
22 arrive at the house?

23 A From my home to their home is probably a 20- 25-minute  
24 drive so shortly after five or thereabout.

25 Q So for two and a half hours while you were there, did

1 other people come and go from the house?

2 A Yes.

3 Q Who else came and went?

4 A There was some other people that had come in that I  
5 assume they had gotten phone calls because they showed up  
6 shortly after we arrived.

7 Q Did you know any of the people?

8 A Some of them -- well, I don't remember -- there was a  
9 lady there that I did not know, but I've later learned who she  
10 was but I did not know her at the time.

11 Q All right. When you left around 7:30 was the defendant  
12 still there?

13 A I think he had just left to go downtown to make a  
14 statement just prior to us leaving.

15 Q With the police?

16 A Well, my son drove him down.

17 Q He wasn't handcuffed?

18 A No.

19 Q He wasn't put in the back of a squad car?

20 A No, he got dressed and went downtown.

21 Q Okay. At the time of her death had your daughter filed  
22 for divorce?

23 A Yes.

24 Q Do you know when she filed?

25 A June of 2004.

1 Q Who was her attorney?

2 A Attorney Sossaman.

3 Q But she was still living in the home with the  
4 defendant?

5 A Yes.

6 Q Were they trying to reconcile or do you know?

7 A I really don't know.

8 Q What did the defendant do for a living?

9 A Taught with the Memphis City School system, assigned to  
10 Hanley Elementary School.

11 Q Did he have any other job interests?

12 A Yes. There was a recycling business and there was a  
13 business on Mt. Moriah that was sort of a club environment of  
14 some sort, venture that he was in.

15 Q What type of club? Do you know?

16 A I don't really know.

17 Q Okay. Do you remember the name of it?

18 A Had an initial R, but I can't remember right now.

19 Q All right. Did your daughter ride motorcycles?

20 A Not really. She had ridden with him before but she  
21 does not --

22 Q Did she have her own?

23 A She did not have her personal motorcycle.

24 Q Okay. They didn't go out riding a lot together?

25 A Not a lot, to my knowledge.

1 Q I'm going to pass you two other pictures. Do you  
2 recognize who is in that photograph or those photographs?

3 A Yes.

4 Q Who is it?

5 A Sheila.

6 Q Okay.

7 MS. WEIRICH: Judge, if we could have those marked  
8 for identification purposes.

9 MR. J. BAILEY: Identification.

10 THE COURT: ID only.

11 (Exhibit No. 3 was marked for identification.)

12 Q Did the defendant and your daughter ever live in  
13 Millington?

14 A Yes.

15 Q When was that?

16 A When they first got married.

17 Q And how long did they live there?

18 A Two or three years maybe.

19 Q After you went to tell your parents that their  
20 granddaughter was dead, did you go back to your daughter's  
21 home or did you go to your home?

22 A I stayed at my mother's home, and I called my nephew at  
23 home to tell him what had happened and we sent for him to come  
24 to my parents' home.

25 Q So you could tell him in person?



1       A     Well, I had to tell him over the phone because the  
2     phones had started ringing constantly and I knew someone was  
3     going to call him and tell him over the phone so I had to tell  
4     him over the phone.

5       Q     Okay. Did you at some point in the days that followed  
6     go back to your daughter's house and start looking through  
7     things?

8       A     The next -- the next day we went back to their home  
9     after we had found out the second day what had happened  
10    because we didn't have her purse or ID or anything because she  
11    was on my checking and savings account and I was on hers and I  
12    knew that a lot of people had been in and out of the house and  
13    I didn't know if it was secure or what have you so we went  
14    that Saturday night to her home and I removed personal items,  
15    her purse and her computer and some clothes for the boys.

16    Q     Okay.

17    A     And there was some mail that was in a bag that I took  
18    with me also.

19    Q     All right. Did you also find some items that you  
20    turned over to the police department?

21    A     Yes.

22    Q     Where did you find those items?

23    A     In the bag that was -- that had mail in it.

24    Q     Where was that bag?

25    A     In the kitchen on a little table.

1 Q What did you find in there?

2 A A copy of the divorce decree. There was a piece of  
3 paper that had some writing across the top of it that had \$100  
4 bill and a \$20 bill in it. There's another document. A  
5 document that she had filed for order of protection in '96,  
6 April of '96.

7 Q Okay. I'm going to pass you some things.

8 MR. J. BAILEY: Your Honor, may we approach?

9 THE COURT: You may.

10 (Bench conference commenced.)

11 MR. J. BAILEY: Pass to the Court the items that I  
12 received from the State to view. At this time we object to  
13 any testimony from these. This witness can't authenticate  
14 these copies. She did not publish them. She did not write  
15 them. And unless she can say she saw them when they were  
16 filled out, then, you know, it would all be hearsay.

17 MS. WEIRICH: Well, she can and she did see them  
18 filled out. I'm not going to move them into evidence through  
19 her anyway. I'm going to call the clerks later on to  
20 authenticate that these are the documents she found.

21 MR. W. BAILEY: Just for identification?

22 MS. WEIRICH: Those two documents right here.

23 MR. J. BAILEY: If it's just for identification  
24 then, okay.

25 MS. WEIRICH: Those are (indiscernible) that she

1 found. There's a note and there's some money and a check and  
2 a letter to the divorce attorney or from a divorce attorney,  
3 rather.

4 THE COURT: Okay. All for ID at this point in  
5 time?

6 MS. WEIRICH: No, sir. Those two are evidence  
7 and --

8 MR. J. BAILEY: I object to those on the same  
9 grounds. That's something she found in her home and in her  
10 daughter's purse. She doesn't know -- she can't authenticate  
11 these documents.

12 MS. WEIRICH: She recognizes that as her  
13 daughter's writing and she knows that's the attorney. That  
14 money was found with this.

15 THE COURT: It's \$100 bill and a \$20 bill in  
16 there.

17 MS. WEIRICH: There will later be testimony from  
18 Kristie Woods, the girlfriend, that she slashed the victim's  
19 tires and then felt bad about it and went back and left this  
20 money and that note on the windshield of the victim.

21 MR. J. BAILEY: Then she needs to authenticate it  
22 and get it in through Kristie Woods, not this witness.

23 THE COURT: Well, I'll allow you to introduce it  
24 for ID purposes that she located it, but I think Mr. Bailey is  
25 right, it should come in actually into evidence through

1 Kristie Woods. Do you plan to call Mr. Sossaman?

2 MS. WEIRICH: No, sir. I plan to call the --

3 MR. J. BAILEY: I do.

4 MS. WEIRICH: Well, if he plans to call him, that  
5 takes care of it.

6 THE COURT: You do plan to call Mr. Sossaman?

7 MR. J. BAILEY: Yes.

8 THE COURT: Well, I'll allow this to come into  
9 evidence at this time, subject to your ability to ask him  
10 about it. I suppose you can ask him about it. So this can  
11 come in. The rest of it can come in for ID purposes at this  
12 time.

13 MR. J. BAILEY: Thank you, Judge.

14 (Said bench conference concluded.)

15 Q Ms. Washburn, I'm going to pass you right now while I  
16 get the rest of this organized, pass you this envelope, ask  
17 you to look inside it, please. Do you recognize it?

18 A Yes.

19 Q What is it?

20 A It's a check attached to a final payment to Dennis  
21 Sossaman.

22 Q And who is Dennis Sossaman?

23 A The divorce attorney.

24 Q For your daughter?

25 A Yes.

1 Q And is the check -- whose writing is the check in?

2 A Sheila's.

3 Q Okay. Is it -- what amount is it made out to?

4 A \$288.50.

5 Q Were those some of the things you found that day in  
6 your daughter's bag?

7 A Yes.

8 Q All right. I'm going to pass you --

9 MS. WEIRICH: Your Honor, if we could ask that be  
10 marked as Exhibit 4.

11 THE COURT: All right.

12 (Exhibit No. 4 was marked and filed.)

13 Q I pass you another envelope. Do you recognize what's  
14 in there?

15 A Yes.

16 Q What is it?

17 A \$100 bill and a \$20 bill.

18 Q Where did you find that?

19 A In the papers that I -- it was in the same bag that I  
20 had.

21 Q The bag of your daughter's?

22 A Yes.

23 MS. WEIRICH: Judge, if we could have that marked  
24 as Exhibit 5.

25 THE COURT: Okay.

1 (Exhibit No. 5 was marked and filed.)

2 Q There is another Manila envelope, Ms. Washburn. Do you  
3 recognize that?

4 A Yes.

5 Q Was that located with the money that you've just  
6 identified?

7 A Yes, the two bills were inserted inside of this and in  
8 this envelope.

9 Q And again where was that found?

10 A It was with her papers.

11 MS. WEIRICH: Judge, I'd ask that be marked for ID  
12 purposes only at this time as Exhibit 6.

13 THE COURT: All right.

14 (Exhibit No. 6 was marked for identification.)

15 Q I'm going to pass you two legal-size documents and one  
16 letter-size document and ask you to look at those, Ms.  
17 Washburn. Do you recognize those?

18 A Yes.

19 Q Did you locate those with your daughter's belongings at  
20 her home shortly after her death?

21 A Yes.

22 Q Did you in fact for the preparation of the documents on  
23 the long pieces of paper, did you go with her when those  
24 documents were prepared?

25 A Yes.

1 Q All right. Do you remember when that was?

2 A April of '96.

3 Q Where did you go?

4 A It was one of the courthouses. I don't remember the  
5 room or anything.

6 Q Do you remember if it was this courthouse or the  
7 courthouse across the street?

8 A It was across the street. It was not this one.

9 Q Thank you.

10 MS. WEIRICH: Judge, I'd ask that those three be  
11 marked as that next numbered exhibit for ID purposes only at  
12 this time.

13 THE COURT: Okay. We'll mark these separately as  
14 7, 8 and 9.

15 (Exhibit Nos. 7-9 were marked for identification.)

16 MR. J. BAILEY: Was that collective?

17 THE COURT: Separate. 7, 8 and 9 as separate  
18 exhibits.

19 MR. J. BAILEY: I'm sorry.

20 Q Did you -- with regard to those longer documents that I  
21 showed you, Ms. Washburn, were you with your daughter when she  
22 filled those out?

23 A Yes.

24 Q Okay. And did she fill them out over in the  
25 courthouse?

1 A Yes.

2 Q Who else was present? Do you remember?

3 A She and I.

4 Q Just the two of you in a room?

5 A Yes, ma'am.

6 Q Who gave her the papers to fill out?

7 A The person in the office.

8 Q Okay. After she filled them out what happened?

9 A She submitted them back to the person that gave them to  
10 her -- that gave them to her.

11 Q And then did y'all leave or did you go somewhere else?

12 A We left.

13 Q Okay. All right. Thank you. Did your daughter ever  
14 tell you why she was filing for divorce?

15 MR. J. BAILEY: Object to hearsay, Your Honor.

16 MS. WEIRICH: State of mind, Judge.

17 A Yes.

18 MR. J. BAILEY: No, we object to hearsay.

19 MS. WEIRICH: May we approach?

20 THE COURT: You may.

21 (Bench conference commenced.)

22 MS. WEIRICH: Judge, it goes to her state of mind  
23 as to her conduct as to what she's doing, not to what some  
24 third party is doing but her state of mind, not for the truth  
25 of the matter asserted but why she is taking certain action.



1 MR. J. BAILEY: Judge, that's not a hearsay  
2 exception. It's not an excited utterance nor is it a dying  
3 declaration.

4 MR. W. BAILEY: And it's remote in time.

5 THE COURT: State of mind is an exception to the  
6 hearsay rule, but when did she file for divorce?

7 MS. WEIRICH: June of '04. I'm anticipating her  
8 answer to be because of the girlfriend, because of this woman  
9 named Kristie.

10 MR. J. BAILEY: If they're utilizing that as part  
11 of the motive, then it is offered for the truth of the matter  
12 asserted.

13 THE COURT: As part of what?

14 MR. J. BAILEY: As apart of the motive. If  
15 they're utilizing this existence of his girlfriend --

16 MS. WEIRICH: I'm not trying to prove the motive  
17 for the divorce. I could care less about that.

18 MR. J. BAILEY: Not of the divorce but of this  
19 alleged homicide, then it is offered for the truth of the  
20 matter asserted.

21 THE COURT: Well certainly the defendant's state  
22 of mind would be the more relevant state of mind exception to  
23 the hearsay rule. I'm not sure that her state of mind six  
24 months earlier on a peripheral matter is sufficiently relevant  
25 to make an exception to the hearsay rule at this point. I'll

1 sustain the objection.

2 (Said bench conference concluded.)

3 Q When did Sheila tell you, your daughter, when did your  
4 daughter tell you that she had filed for divorce? Did she  
5 tell you before she had filed or after she had done it? Or do  
6 you remember?

7 A She told us before she filed.

8 Q Okay. Do you know a woman named Kristie Woods?

9 A I know of her.

10 Q You've heard of her?

11 A Yes.

12 Q You never met her?

13 A No, ma'am.

14 Q And who did you hear of her from?

15 A Sheila.

16 Q When you were at your daughter's home the morning that  
17 your son-in-law called and you told you she was dead, do you  
18 remember did they have a house phone?

19 A Yes.

20 Q Do you remember anyone using it?

21 A I don't remember -- well, I don't remember. I know his  
22 mother was there and his aunt, but I'm not sure if they used  
23 the house phone or their cell phones. I'm not sure.

24 Q Did the defendant have a cell phone?

25 A Yes.

1 Q When you would typically call your son-in-law, would  
2 you call him on his cell phone or would you call him at work  
3 or at the house?

4 A Cell phone.

5 Q Do you know how many cell phones he had?

6 A Two, I think.

7 Q He had two of his own cell phones?

8 A Yeah.

9 Q Did your daughter also have a cell phone?

10 A Yes.

11 Q Okay. Do you remember which of the two cell phone  
12 numbers you would use when you would call your son-in-law?

13 A 1-3. The last two digits were 13.

14 Q Do you remember him using either one of those cell  
15 phones the morning that you were there?

16 A I did not see him use the cell phone in my presence  
17 when I was talking with him.

18 Q Were you sitting by him the whole time?

19 A No.

20 Q Okay. Was he talking with other people?

21 A Yes.

22 Q And you were likewise, I'm sure, talking with other  
23 people?

24 A Yes.

25 MS. WEIRICH: If I may have one moment, Your

1 Honor.

2 Q The day that you went over and retrieved the items that  
3 we've talked about, was that the last day you ever went to  
4 your daughter's home to clean out her belongings or did you go  
5 another time?

6 A We went another time.

7 Q Did you go many times or just one other time?

8 A We went -- we went one other time, and we went back a  
9 second time and the locks had been changed on the doors so we  
10 could not gain entrance to the house.

11 Q Okay. The time that you went in-between there before  
12 the locks had been changed, you were able to get in the house;  
13 right?

14 A Yes.

15 Q Who was with you?

16 A My son, two or three other girlfriends.

17 Q Which girlfriends? Do you remember?

18 A I'm drawing a blank. I'm sorry.

19 Q Have you seen them today?

20 A I'm trying to remember the different occasions. The  
21 first time we went, the girlfriends that I've seen today were  
22 there but the second time we went because Vern's brother was  
23 here from out of the city and I went to her home at that time  
24 to remove items because with her being a physical therapist,  
25 PT assistant, she had a file there at home that had all of her

1 patients' social security numbers, dates of birth and  
2 information, and I wanted to retrieve them as soon as I could  
3 because I didn't know if the house may be vandalized or  
4 whatever the case may be. And we did not want to expose that  
5 data of her patients so we retrieved those boxes so we went to  
6 get her clothing and those boxes that particular time.

7 Q So you went for that purpose of retrieving those  
8 particular items?

9 A Yes.

10 Q Did you wander all through the house and look in every  
11 nook and cranny?

12 A No.

13 Q You knew where the box was with the information, and  
14 you also knew where her clothes were?

15 A Yes.

16 Q You retrieved them and left?

17 A Right. We just retrieved the things that were in the  
18 bedroom, the kind of split down the bedroom, that half we  
19 removed and all of her clothing and the things of course that  
20 were in the closet that particular time.

21 Q All right.

22 MS. WEIRICH: Judge, at this time if I could have  
23 Exhibits 4 and 5 published to the jury. I believe all the  
24 rest are for ID only at this time.

25 THE COURT: Okay.

1 MR. J. BAILEY: Now I show 5 as ID only.

2 THE COURT: It was actually introduced into  
3 evidence but --

4 MR. J. BAILEY: We don't have an objection to it.

5 THE COURT: Why don't we publish those or I'll  
6 just have Officer Lafferty hold them up. They have the  
7 fingerprint dust on them so rather than ask the jurors to --  
8 so let's do that first with 5. You can hold the two bills up  
9 for the jurors to see.

10 Q While that's being passed, Ms. Washburn, when you found  
11 the money, did it have that purple tint on it?

12 A No, it was clean.

13 (Jury viewed exhibits.)

14 Q Officer Lafferty, if you could be so kind to pass that  
15 back to Ms. Washburn. If you could take a look at that check.  
16 When was that made out?

17 A October 24th, 2004.

18 MS. WEIRICH: Thank you. Pass the witness.

19 THE COURT: Ladies and gentlemen, I think we will  
20 take about a ten-minute break at this time. As always, do not  
21 discuss the case during the recess. You may leave your note  
22 pads in your chairs. They'll be fine right there.

23 (Jury out.)

24 THE COURT: Ms. Washburn, you may step down during  
25 the recess but do not discuss your testimony with anyone

1 during the recess. Take him out, please. Stand in recess.

2 (Recess.)

3 THE COURT: Bring out the defendant, please.

4 Bring in the jury, please.

5 (Witness Washburn, resumed the witness stand,

6 having been previously sworn.)

7 (Jury present.)

8 THE COURT: Mr. Bailey.

9 MR. W. BAILEY: Mrs. Washburn, we're sorry about  
10 the loss of your daughter but we have no questions.

11 THE COURT: You may step down. Call your next  
12 witness.

13 MS. WEIRICH: State calls Angela Snyder.

14

15 ANGELA SNYDER

16 called as a witness, being first duly sworn, was examined and  
17 testified as follows:

18 DIRECT EXAMINATION

19 BY MS. WEIRICH:

20 Q Good morning.

21 A Good morning.

22 Q Would you please tell the jury your name and spell your  
23 last name?

24 A Angela Tall Snyder, S-N-Y-D-E-R.

25 Q What do you do for a living, Ms. Snyder?

1           A     I am a nurse practitioner at St. Jude Children's  
2     Hospital.

3           Q     How long have you been there?

4           A     I've been there ten years.

5           Q     Did you know Sheila Braswell?

6           A     Yes.

7           Q     How long did you know Sheila Braswell?

8           A     I met her February of last year.

9           Q     Where did you meet?

10          A     She came to a day of pampering that I sponsored with  
11     her mom.

12          Q     Her mother being Ms. Washburn?

13          A     Uh-huh.

14          Q     What do you mean "a day of pampering"?

15          A     I part time do in-home spas with Beauty Control and we  
16     do these day of pampering where we invite people and pamper  
17     them for an hour and that is where we first met.

18          Q     Okay. Did she then get into that side business?

19          A     Yes, the next month when I did a spa at her home, and  
20     then she became a consultant that night.

21          Q     So during the day you are a nurse practitioner and then  
22     as a side job you did this?

23          A     Yes.

24          Q     Did Sheila Braswell likewise have a day job?

25          A     Yes.



1 Q What did she do?

2 A Occupational therapist.

3 Q I'm going to pass you Exhibit 1. Do you recognize  
4 that?

5 A Yes.

6 Q Who is that?

7 A Sheila.

8 Q Is that what she looked like when you knew her?

9 A Yes.

10 Q Is there anything different about her appearance in  
11 that picture than the way you would usually see her?

12 A She usually wears glasses.

13 Q What kind of glasses?

14 A Just small little reading -- not reading glasses,  
15 seeing glasses.

16 Q Did she wear them a lot?

17 A Usually when I saw her she had glasses on.

18 Q Okay. When was the last time you saw Ms. Braswell?

19 A The night she died.

20 Q Where did you see her?

21 A I came to her home that night.

22 Q About what time? Do you remember?

23 A It was about 10 o'clock.

24 Q Was she there?

25 A Uh-huh.

1 Q Who else was there?

2 A I didn't see anybody else.

3 Q What was your purpose of going there?

4 A I just had a spa that night and they ordered something  
5 that I didn't have and I called Sheila and asked her did she  
6 have it and she said yes. And since I was going out that way,  
7 I told her I wanted to stop by and I stopped by to pick it up.

8 Q Okay. Did you also deliver something to her as well as  
9 taking something from her Beauty Control supply?

10 A Yes. I gave her some money to wire for me the next  
11 day.

12 Q How much money? Do you remember?

13 A It was between 375 and 400. The only reason I say that  
14 is because I remember having to borrow the next day because  
15 after she died, I didn't want to bother the family so I called  
16 my father to loan me \$400 so my sister could take care of the  
17 business that I had given Sheila to do for me.

18 Q Was there a time later on that you ever got that money  
19 back?

20 A No --

21 MR. J. BAILEY: I object to relevance, Your Honor.  
22 What's the relevance?

23 THE COURT: Well, if y'all would like to approach.

24 (Bench conference commenced.)

25 THE COURT: Where are you headed?

1 MS. WEIRICH: It's just a fact in issue that she  
2 dropped off this Beauty Control money for Ms. Washburn to wire  
3 and then it was never seen again.

4 THE COURT: Well, I don't know if it's that  
5 significant one way or another but I'll sustain the objection.

6 MS. WEIRICH: All right.

7 (Said bench conference concluded.)

8 Q Was it cash money?

9 A Yes.

10 Q All right. And why did you give it to Ms. Braswell?

11 MR. J. BAILEY: Your Honor, I thought you just  
12 sustained the objection.

13 THE COURT: Well, I --

14 MS. WEIRICH: May we approach, Judge?

15 THE COURT: We had gotten to the point of getting  
16 it back and all when you objected. I'll allow this question.

17 Q What was your point in taking it to Ms. Braswell?

18 A I knew her mom worked at First Tennessee and Sheila  
19 always wired things and I thought that would be the easiest  
20 way to get the money wired to Beauty Control the next day  
21 because I knew she would be able to do it where I was going  
22 out of town and I wasn't going to be able to do it.

23 Q So this was Beauty Control money?

24 A Yes.

25 Q Did you go in the home that night?

1 A Yes.

2 Q Where did Sheila live?

3 A She lived -- this is really sad. I don't know the  
4 exact street because I just knew how to get there because my  
5 step -- my niece lived -- used to go to the school right  
6 behind her house, but it's off of Germantown Parkway and once  
7 you got off the expressway it was, like, the second light to  
8 the left and then I turned left but I just don't remember the  
9 name of the street.

10 Q Was it in Shelby County?

11 A Yes.

12 Q All right. Was Ms. Braswell awake when you got there?

13 A Yes.

14 Q What was she doing?

15 A Talking on the telephone.

16 Q On a cell phone or the house phone or do you know?

17 A I'm not sure which phone. She was on a little phone  
18 that she put on a stand so I thought it was a cell phone. It  
19 was on speaker.

20 Q All right. Did she get off the phone when you came in?

21 A No.

22 Q What did she do?

23 A She kind of had, like, conversations with me and then  
24 she would go back to the conversation she was having on the  
25 phone. There was several people on the line that she was

1 talking on so they were kind of having the conversation while  
2 she was talking with me.

3 Q All right. How long did you stay at the house?

4 A I was there about 30 minutes.

5 Q Did you know her husband the defendant Vern Braswell?

6 A Yes, we met.

7 Q Do you see him in court this morning?

8 A Yes.

9 Q Would you point to him for me, please, and tell me what  
10 he's wearing?

11 A He's sitting back there with the black suit on and a  
12 white or gray shirt and a black and white tie, maybe.

13 MS. WEIRICH: Let the record reflect she's  
14 identified the defendant.

15 Q Was he at the home that night while you were there?

16 A I did not see him.

17 Q Did you see his car?

18 A No.

19 Q Did you see their two children at the house?

20 A No.

21 Q All right. I may have already asked you this, how long  
22 were you there?

23 A About 30 minutes.

24 Q Was Ms. Braswell on the phone the whole time with these  
25 people that she was talking to?

1 A Yes.

2 Q And likewise, she was talking with you?

3 A Right, because she would, like, leave them and we would  
4 have a conversation and then she went to go get the neck wraps  
5 and so it was kind of busy. We were just busy -- but she  
6 never hung the phone up from them.

7 Q Okay. Did she appear to be in a good mood?

8 A Yeah.

9 Q Did she appear to be physically fit?

10 A Yeah.

11 Q I'll pass you a photograph, Ms. Snyder. Do you  
12 recognize that?

13 A Yes.

14 Q What is it?

15 A That's her home.

16 Q That's the home you went to?

17 A Yes.

18 Q On November -- what date was it?

19 A It was November, I'm thinking -- I just remember it was  
20 Thursday. I remember it was a Thursday the first week of  
21 November of last year. I don't remember the exact date, I'm  
22 sorry.

23 Q That's all right. Thank you.

24 MS. WEIRICH: Judge, if we could move that into  
25 evidence as Exhibit 10.

1 MR. W. BAILEY: Your Honor, before we do that, we  
2 don't have any objection, but may we see it?

3 THE COURT: Sure.

4 MR. W. BAILEY: Thank you.

5 MS. WEIRICH: Judge, for the record they have all  
6 these pictures.

7 MR. W. BAILEY: Judge, we didn't know what picture  
8 she was presenting.

9 THE COURT: Okay. That's fine.

10 MR. W. BAILEY: No objection.

11 THE COURT: Okay.

12 (Exhibit No. 10 was marked and filed.)

13 MS. WEIRICH: May I publish it, Your Honor?

14 THE COURT: You may.

15 MS. WEIRICH: Pass the witness.

16 THE COURT: Mr. Bailey.

17 MR. W. BAILEY: Would Your Honor indulge us?

18 MR. J. BAILEY: No questions.

19 THE COURT: You may step down. Call your next  
20 witness.

21 MS. WEIRICH: State calls Jessica Green.  
22  
23  
24  
25

1 JESSICA GREEN

2 called as a witness, being first duly sworn, was examined and  
3 testified as follows:

4 DIRECT EXAMINATION

5 BY MS. WEIRICH:

6 Q Good morning.

7 A Good morning.

8 Q Would you please tell the jury your name?

9 A Jessica Green.

10 Q Where do you work?

11 A I'm a dispatcher for the Memphis Police Department.

12 Q What does a dispatcher do?

13 A We answer 911 calls and dispatch the police on various  
14 incidents.

15 Q Were you working as a -- how long have you been a  
16 dispatcher?

17 A Five years.

18 Q Were you working the early morning hours of November  
19 5th, 2004?

20 A Yes.

21 Q Do you work -- what shift do you work normally?

22 A I work 11:45 p.m. to 7:45 a.m.

23 Q Currently that's the shift you work?

24 A I'm still on that shift.

25 Q Was that the same shift you were working back in



1 November of 2004?

2 A Yes.

3 Q Did you receive a call early morning hours of November  
4 5th, 2004, regarding a woman in a tub?

5 A Yes.

6 Q All right. Did the call come in to your office?

7 A Yes.

8 Q Explain to the jury how that works. We all know about  
9 calling 911. Is that how someone reaches you is to call 911?

10 A Yes, ma'am.

11 Q And where is the 911 office located?

12 A It's on the 12th floor of this building.

13 Q Okay. Are there other businesses conducted out of that  
14 office?

15 A It's only 911. We also answer the non-emergency line  
16 for the police department, but that's all we do in  
17 communications.

18 Q Okay. Do you pick up a phone like we all have at home  
19 or do you have a special phone?

20 A We have a headset. And the calls come in, you push the  
21 button to take the call. Push a button to receive the  
22 incoming call.

23 Q Okay. And what happens when a call is received? What  
24 is done to preserve it, if anything?

25 A The calls are recorded. All of the calls are recorded.

1 Q How are they recorded? Do you know?

2 A We used to have recorders that were actually on the  
3 floor. I think there are recorders in the supervisor's office  
4 now. But it's a computer that records it.

5 Q Does it record everything that's said or is it more of  
6 a summary of what's said?

7 A It records everything that's said.

8 Q And from these recordings, can you hear your voice as  
9 well as the voice of the person calling?

10 A Yes.

11 Q If you were to dispatch people, what does that mean?

12 A Once you get the information, all the information that  
13 you need, you figure out what type of call it is. We have  
14 call types. It determines how many officers you send out,  
15 according to the type of call it is. You get on the radio and  
16 you tell the officers the address and what's going on at that  
17 location and what they're responding to.

18 Q Okay. So are you the person that makes the decision as  
19 to how many officers are needed?

20 A What we do is half of the shift you take calls and the  
21 other half of the shift you dispatch so I am that person on  
22 one half of the shift.

23 Q Okay. All right. You've listened to a tape this  
24 morning; correct?

25 A Yes.

1 Q Did you recognize the tape that you listened to?

2 A Yes.

3 Q How did you recognize it?

4 A I remember taking the call. I remember transferring  
5 the call to the fire department and staying on the line  
6 listening to it. I heard my voice on the tape.

7 Q All right. When you say you turned it over to the fire  
8 department, what does that mean?

9 A We receive calls for the fire department and they  
10 handle medical and fires. So if we get a call that's a fire,  
11 it's fire related or medical related, we connect it to the  
12 fire department. We do stay on the phone to make sure that  
13 it's a medical or a fire emergency and then at that point we  
14 can disconnect.

15 MR. W. BAILEY: Your Honor, we'll stipulate to the  
16 admission of the tape.

17 MS. WEIRICH: Okay.

18 THE COURT: Okay. That's fine. Thank you.

19 Q When -- you said that the tape you listened to this  
20 morning, you said that you stayed on the line and listened.  
21 Are you supposed to do that or were you just interested in  
22 this call?

23 A I -- there's a lot of determination that you have to do  
24 on your own and a lot of times the fire department will tell  
25 us on a call like that, they'll tell us, police, we want you

1 to go because they don't know exactly what's going on. So  
2 just in case they need us, they'll tell us to meet them.

3 Q So you stayed on the line in case you needed to  
4 dispatch somebody else?

5 A Yes.

6 Q Can the fire department not dispatch the police?

7 A No.

8 Q Does that have to come from you?

9 A Well, if I had hung up and they determined I was not on  
10 the line and they felt like they needed the police, they'll  
11 immediately call us back and say we need you to go with us.

12 Q Okay. All right. All right.

13 MS. WEIRICH: Judge, at this time if I could have  
14 this passed to Ms. Green.

15 MR. W. BAILEY: Your Honor -- go ahead. Is that  
16 the tape?

17 MS. WEIRICH: Uh-huh.

18 Q Would you open it up for me, please. Do you recognize  
19 that?

20 A Yes.

21 Q Is that the tape that you just listened to?

22 A Yes.

23 Q All right.

24 MS. WEIRICH: Judge, if we could have that marked  
25 as Exhibit 11.

1 THE COURT: All right.

2 (Exhibit No. 11 was marked and filed.)

3 MS. WEIRICH: If we could play that for the jury  
4 at this time, Your Honor.

5 THE COURT: You may.

6 (Played Exhibit 11.)

7 Q The two voices, the two female voices on the tape, was  
8 one of those yours?

9 A Yes.

10 Q And who did the other one belong to?

11 A The fire department dispatcher.

12 Q All right.

13 MS. WEIRICH: Pass the witness.

14 THE COURT: Mr. Bailey.

15 MR. J. BAILEY: We have no questions.

16 THE COURT: You may step down. Call your next  
17 witness.

18 MS. WEIRICH: Judge, if we could approach?

19 THE COURT: Sure.

20 (Bench conference commenced.)

21 MS. WEIRICH: I'm not sure if he's here. If I  
22 could just -- I'm not sure if he's here. Can I just --

23 MR. J. BAILEY: Can I move this up?

24 MS. CARNESALE: We moved it back because I  
25 couldn't see.

1 THE COURT: We'll deal with it at lunch.

2 (Said bench conference concluded.)

3 MR. W. BAILEY: Your Honor --

4 (Bench conference commenced.)

5 MR. W. BAILEY: It appears Mr. Braswell needs a  
6 break. He's crying and --

7 THE COURT: Okay. We'll take a recess.

8 (Said bench conference concluded.)

9 THE COURT: All right. Ladies and gentlemen,  
10 we'll take a brief recess. As always, do not discuss the case  
11 among yourselves during the recess.

12 (Jury out.)

13 THE COURT: Take him out. Is your witness out  
14 there?

15 MS. WEIRICH: Yes, Judge.

16 THE COURT: And is it a relatively short witness?

17 MS. WEIRICH: Yes, sir.

18 THE COURT: We'll try to get him on before lunch  
19 then. We'll take a brief recess.

20 (Recess.)

21 THE COURT: Bring in the jury, please.

22 (Jury present.)

23 THE COURT: Call your next witness.

24 MS. WEIRICH: State calls R. Coleman.

25

1 ROOSEVELT COLEMAN

2 called as a witness, being first duly sworn, was examined and  
3 testified as follows:

4 DIRECT EXAMINATION

5 BY MS. WEIRICH:

6 Q Good afternoon.

7 A Good afternoon.

8 Q Would you please tell the jury your name and spell your  
9 first and last names for the court reporter?

10 A I'm Roosevelt Coleman. That's R-O-O-S-E-V-E-L-T  
11 C-O-L-E-M-A-N.

12 Q Where do you work, Mr. Coleman?

13 A For the police communications.

14 Q What is police communications?

15 A That's where any transaction between the police and the  
16 citizens is recorded.

17 Q All right. When citizens call 911, are those calls  
18 recorded as well?

19 A They are, yes.

20 Q What is your duty or what are your duties with MP  
21 communications?

22 A I'm a communications supervisor. I handle scheduling.  
23 I handle citizen complaints. I handle attorney requests. And  
24 I am a custodial of records. I maintain and keep updates on  
25 the logs of records.

1 Q What types of records does the communications bureau  
2 keep?

3 A As we before stated, anything that comes in that is  
4 recorded is considered a record. We keep them for at least 18  
5 months.

6 Q You keep -- the jury has just listened to an actual 911  
7 tape that was made from your office.

8 A Okay.

9 Q Is there also a written documentation of that tape?

10 A Yes, it's called an event chronology.

11 Q Explain to the jury how that's made.

12 A It's a computer-generated entry that's entered by the  
13 dispatcher that's on either the radio or the telephone and  
14 it's typed in and it's a timely entry. And we can retrieve it  
15 by looking at it and printing the screen.

16 Q When you say "it's a timely entry," what do you mean?

17 A That whenever the incident occurs, whatever transaction  
18 it is, we enter it into the system as soon as possible and the  
19 computer generates a time factor for it.

20 Q I will pass you a document.

21 MR. W. BAILEY: May we see what you are passing  
22 up?

23 MS. WEIRICH: You may.

24 Q Do you recognize that?

25 A I do.



1 Q What is it?

2 A It's an event chronology.

3 Q All right. Can you tell when the event was generated?

4 A Yes, I can.

5 Q When?

6 A On November 5th, 2004 at 3:57 a.m.

7 Q From where was the event generated? Where was the call  
8 placed from?

9 A It was placed from 8152 Creekside Circle North in the  
10 Maple Creek Drive cross street.

11 Q And what phone number?

12 A From phone number 901-624-5176.

13 MS. WEIRICH: Judge, if we could have that marked  
14 as the next numbered exhibit.

15 THE COURT: All right.

16 MR. W. BAILEY: No objection.

17 THE COURT: Exhibit 12.

18 (Exhibit No. 12 was marked and filed.)

19 MS. WEIRICH: And I've made copies for the jurors,  
20 Judge, ask that those be passed out.

21 THE COURT: All right.

22 Q Mr. Coleman, if you could, you just told the jury that  
23 the event was created November 5th, '04, at a certain time.  
24 Where is that indicated on the document that the jury is now  
25 looking at?

1       A     The very first line under the highlighted area; date,  
2     time and term.

3       Q     Okay. And the operator, what does that number  
4     indicate?

5       A     That's the operator that took the call initially.

6       Q     Okay. And the narration on the right-hand side from --  
7     how can you tell where the phone number was that the call came  
8     from?

9       A     If you'll look down a little, I think it's the fifth or  
10    sixth line, it says ANI/ALI phone number. Any 911 calls that  
11    originated come in with one transaction tells the location,  
12    the cross street and the registered name of the owner of the  
13    location.

14      Q     Okay. And then under that is that the phone number?

15      A     Under that is the phone number, yes.

16      Q     Does that information have to be given by the caller or  
17    does it just show up on the computer?

18      A     When they dial 911 it shows up on the computer.

19      Q     All right. Is this an exact word chronology of what's  
20    being said on the tape or is it more of a summary?

21      A     This is more of a summary.

22      Q     Okay. All right. And the last page, page three, where  
23    the typing ceases. When do they stop making a record of this?

24      A     When it says "event closed" and the last time entry  
25    there 07:43 and 57 seconds.

1 Q How is the determination made to close the event?

2 A When all of the units that are assigned to this event  
3 clear or get back into service and the dispatcher then takes  
4 them off that particular event, it closes it.

5 Q All right. Thank you. When you say "when they clear,"  
6 what does that mean?

7 A That means that the officers that were assigned to the  
8 event advise their dispatcher they are again available for  
9 service for another call.

10 Q They're leaving that scene?

11 A They're leaving that scene, yes.

12 MS. WEIRICH: Pass the witness, Your Honor.

13 THE COURT: Mr. Bailey.

14

15 CROSS-EXAMINATION

16 BY MR. J. BAILEY:

17 Q Is it Officer Coleman?

18 A No, civilian.

19 Q Mr. Coleman, now of course you weren't the person who  
20 does the input into the computer system as it begins to  
21 generate this report, are you?

22 A No, I'm not.

23 Q You are here, as you stated earlier, as keeper of the  
24 records so you supervise those people; is that correct?

25 A Yes.

1 Q And as the prosecutor just asked you on direct, this is  
2 not a word-by-word transcript of what occurs is that -- that's  
3 correct, isn't it?

4 A That's correct, yes.

5 Q And in fact, it's essentially a log, would you say?

6 A It is a log, yes.

7 Q And this log also includes the -- sometimes it includes  
8 the perception of the operator; is that correct?

9 A We steer clear of that but yes, it does.

10 Q Let me -- you're holding the event chronology in your  
11 hand?

12 A I am, yes.

13 Q Let me refer you to page 2. And I would like for you  
14 to look at 404. This is military time. That's right, isn't  
15 it?

16 A Yes, it is.

17 Q So this would be 4:04 and 49 seconds a.m. Is that  
18 correct?

19 A Yes.

20 Q And it says "term CT 10." What does that mean?

21 A That's the position where the incident occurred, this  
22 particular transaction.

23 Q All right. And would you read for me what's in your  
24 record as the comment. It says "event comment." That means  
25 this operator's perception; is that correct?

1 A Yes.

2 Q Would you read the perception of the operator as she --  
3 he or she put it into the system?

4 A The complainant is hysterical and screaming, keeps  
5 putting the phone down and coming back screaming.

6 Q So in your record it indicates that the complainant,  
7 and you don't know who that person is, but whoever it was that  
8 called in was hysterical; isn't that correct?

9 A Yes.

10 Q Now just one more question. Where it says event closed  
11 and we go some three and a half hours later to 7:43 a.m.,  
12 that's on the third page. Now is someone on the phone all  
13 this time or do the -- or are the units that are dispatched,  
14 they just keep making entries by calling in?

15 A There's two types of functions. There's a call-taker  
16 function where the dispatcher is talking on the phone to a  
17 complainant. And the second type is where the dispatcher  
18 talking to the police officers on a two-way radio.

19 Q Okay. And so after the complainant hangs up, at that  
20 point you go into that second function; is that correct?

21 A That's correct.

22 Q So there wasn't somebody on the phone the whole time?

23 A No.

24 Q All right.

25 MR. J. BAILEY: No further questions, Judge.

1 THE COURT: Anything further, Ms. Weirich?

2 MS. WEIRICH: No, Your Honor.

3 THE COURT: You may step down. If y'all will pass  
4 those back in, please. All right. Ladies and gentlemen,  
5 we'll stop for lunch at this time. We will resume the trial  
6 at 1:30. And as always, do not discuss the case in any way  
7 among yourselves or with anyone else during your lunch break.

8 (Jury out.)

9 THE COURT: Take him out, please. Recess until  
10 1:30.

11 (Recess.)

12 THE COURT: Bring in the jury, please.

13 (Jury present.)

14 THE COURT: You may call your next witness.

15 MS. CARNESALE: Thank you, Your Honor. The State  
16 calls Fred Jackson.

17

18 LIEUTENANT FRED JACKSON

19 called as a witness, being first duly sworn, was examined and  
20 testified as follows:

21 DIRECT EXAMINATION

22 BY MS. CARNESALE:

23 Q Good afternoon.

24 A Good afternoon.

25 Q Will you please state and spell your name for the

1 record?

2 A Fred Jackson, F-R-E-D J-A-C-K-S-O-N.

3 Q Where are you employed, Mr. Jackson?

4 A City of Memphis Fire Department.

5 Q And what do you do for the fire department?

6 A I'm a lieutenant.

7 Q Are you trained in the medical field as an EMT or  
8 paramedic or are you a firefighter?

9 A I'm a firefighter.

10 Q How long have you been a firefighter?

11 A 21 years.

12 Q And have you always worked for the City of Memphis Fire  
13 Department?

14 A Yes.

15 Q Currently a lieutenant?

16 A Yes.

17 Q On or about November 5th, 2004, did you respond to a  
18 call that went out from the location of 8152 Creekside Circle  
19 North?

20 A Yes, I did.

21 Q What was your role in responding to that call?

22 A We arrived on the scene and I was met at the door by  
23 Mr. Braswell and he led -- led us into the house down a  
24 hallway and into the bedroom.

25 Q Okay. I'm going to pass forward a photograph that was

1 previously marked State's Exhibit No. 10 and ask you to take a  
2 look at that photograph. Was that the house that you  
3 responded to, sir?

4 A Yes, it is.

5 Q And what area of town is that?

6 A This is in the Cordova area, a recently annexed area of  
7 the City of Memphis.

8 Q Which is why the City responded to the call?

9 A Exactly.

10 Q And, sir, you're welcome to put that down on the table  
11 in front of you. Now do you recall what type of call it went  
12 out as that you were responding to?

13 A Yes, I remember correctly. It came in as a person not  
14 breathing and that CPR was being performed.

15 Q Okay. Approximately how long did it take for -- after  
16 the call went out for you, the fire department, to get to that  
17 house?

18 A About -- about six minutes, I should say.

19 Q And have you reviewed records in preparation for your  
20 testimony today?

21 A Yes.

22 Q And aside from yourself, how many other members of the  
23 Memphis Fire Department responded to the call?

24 A Five.

25 Q Five?



1 A Right.

2 Q So six total?

3 A Exactly. Four personnel were on the truck and two  
4 personnel were with the unit or the ambulance.

5 Q So the ambulance is called "the unit"?

6 A Yes.

7 Q And two people rode in that?

8 A Right.

9 Q And those would be paramedics?

10 A One would be a paramedic and the other one is an EMT.

11 Q What is the difference between a paramedic and an EMT?

12 A The EMT is a basic -- a basic technician as far as  
13 assisting the paramedic who is more skilled in assessing a  
14 patient and treating the patient with certain drugs and that  
15 type of thing. The EMT is mainly a support personnel for the  
16 paramedic.

17 Q And you rode on the truck as you were a firefighter; is  
18 that right?

19 A Yes.

20 Q Were you the supervising employee on the scene as a  
21 lieutenant?

22 A Yes.

23 Q What number of those six employees were you in entering  
24 the house?

25 A I was the first.

1 Q You were the very first?

2 A I was the first, yes.

3 Q Okay. And when you got to the scene you saw Mr.  
4 Braswell; is that correct?

5 A Yes.

6 Q Do you remember what he looks like?

7 A Yes, he's a -- I consider him stocky. He was short  
8 compared to me but a fairly stocky person in my opinion.

9 Q Do you see him today in the courtroom?

10 A I can't say that I do.

11 Q Okay. And when you spoke with Mr. Braswell, was he  
12 inside or outside the house when you got there?

13 A He was on the outside.

14 Q What was he doing?

15 A He was -- he was standing there. He was just standing  
16 there. He had a white robe on and he then proceeded to lead  
17 me or us into the house down the hallway and into the bedroom.

18 Q And when you got to the bedroom, what did you do?

19 A I observed Mrs. Braswell in the -- in the tub or she  
20 was halfway in the tub, I should say.

21 Q Let me pass forward -- before we get into that -- what  
22 was previously marked State's Exhibit No. 2. Is this the  
23 bathtub that you found Ms. Sheila Braswell in?

24 A Yes, it is.

25 Q Is that how it looked that night?

1       A     With the exception of Mrs. Braswell's body, that's the  
2     way I remember it.

3       Q     Okay. And you're welcome to set that down, if you'd  
4     like. You say her body was positioned how in the tub?

5       A     I consider it an awkward position. Her lower body was  
6     in the tub, not in a position as far as we may think as far as  
7     taking a bath or what have you. Her upper part of her body  
8     was out -- was outside of the tub but not on the floor.

9       Q     If you would --

10            MS. CARNESALE: Your Honor, may I approach the  
11     witness?

12            THE COURT: You may.

13       Q     Sir, may I have that photograph of the bathtub. I'm  
14     going to put it up here for us to look at.

15            MS. CARNESALE: And with Your Honor's permission,  
16     may he step down to demonstrate?

17            THE COURT: You may.

18       Q     Mr. Jackson or Lieutenant Jackson, I'm going to place  
19     the photograph on here. If you could with just your finger,  
20     explain to the jury how she was situated in the bathtub?

21            THE COURT: Could you do me a favor and point on  
22     this photograph? That way it will show up on the monitor.

23       A     If I remember correctly, her face was in this area and  
24     her upper body was across the tub in this way.

25       Q     As if it were coming over the side of the wall?

1 A Yes.

2 Q Okay. Okay. I understand. Thank you, sir. If you  
3 would retake your seat. What was -- was Ms. Braswell, how did  
4 she appear? Was she moving? Was she breathing?

5 A Oh, no. There were no sign of life, visual sign as far  
6 as the chest moving up and down, that type of thing. No,  
7 there appeared to be no sign of life.

8 Q Okay. What did you do when you saw her there in the  
9 bathtub?

10 A At that time another -- the EMT that was riding on the  
11 company assisted -- I assisted him in taking her out of the  
12 tub and laying her at the foot of the bed, from what I recall  
13 later.

14 Q Was this a bathroom that was connected to the bedroom?

15 A Yes.

16 Q And you and -- do you recall who the EMT was that  
17 assisted you?

18 A Babatunji Tanzy.

19 Q His name is Baba Tanzy?

20 A Right.

21 Q So you and Mr. Tanzy took her into the bedroom and lay  
22 her on the floor?

23 A Exactly.

24 Q And then what happened after that?

25 A The paramedics came in and they started to do what they

1 did, put a strip on her, hooked her up to the monitor, that  
2 type of thing. But at that time I was leaving out, going back  
3 into the living room area consoling Mr. Braswell.

4 Q Was he making any statements to you?

5 A Yes. Yes, he did. He made statements to the effect of  
6 what was he going to do without his wife, what was his kids  
7 going to do without his wife, can we do anything to help her,  
8 to help her and that type of thing. He was -- some things to  
9 that effect.

10 Q Did you see any children in the house?

11 A I don't recall seeing kids in the house at that -- at  
12 that time. I don't recall. I don't recall seeing kids.

13 Q Do you know where they were at that time?

14 A If I remember, there was a neighbor, a next-door  
15 neighbor who came over and that's -- that's who either had the  
16 kids or who took the kids from the household.

17 Q Did you see him take the kids?

18 A I don't recall seeing him take the kids from the  
19 household.

20 Q Okay. And did you ask or did Mr. Braswell say what  
21 happened to have Ms. Braswell end up in the bathtub?

22 A Not directly. He made references to -- that I  
23 shouldn't have let her had that drink or I should have  
24 awakened or something to that effect. I don't recall him  
25 specifically saying how she got in the tub, when she got in or

1       that type of thing.

2       Q       How long did you speak to Mr. Braswell?

3       A       Maybe 15 minutes. And this wasn't a back-and-forth  
4       conversation between Mr. Braswell and myself. It was more of  
5       a conversation he was having. He was just speaking aloud,  
6       asking questions what can we do for her or help or and this,  
7       that and the other. It was not a one-on-one conversation  
8       between the two where there were certain things exchanging --  
9       exchanged between the two.

10      Q       Was anyone else present while he was making these  
11      statements?

12      A       The other -- the other EMT may have been there, Mr.  
13      Tanzy. He may have been there or the other paramedic. He may  
14      have been there.

15      Q       Okay. Anyone such as family or friends or was it all  
16      just fire department personnel?

17      A       Initially, it was just Mr. Braswell and the fire  
18      department personnel. But later, what I would assume would be  
19      family members started to come.

20      Q       Before they started to come or -- let me rephrase.  
21      While you were speaking with Mr. Braswell, was he ever on the  
22      telephone?

23      A       Yes.

24      Q       Were -- was he placing calls or was the phone ringing  
25      and he was receiving calls?

1       A     If I remember and I do that he was placing calls. He  
2 was making calls.

3       Q     Did you notice whether this was his home phone or a  
4 cell phone?

5       A     It was a cordless phone. I can't remember if it was a  
6 cell phone or a home cordless phone.

7       Q     Lieutenant Jackson, I'm going to ask you, were you ever  
8 called upon to put down in the form of a picture how Ms.  
9 Braswell was situated in the bathtub?

10      A     Yes, I was.

11      Q     For the police department?

12      A     Yes.

13      Q     In fact you made a sketch; is that right?

14      A     Yes.

15      Q     If I may pass this forward to you, Lieutenant Jackson.  
16 Is this the sketch you made of Sheila Braswell and how she was  
17 situated in the bathtub on November 5th, 2004?

18      A     Yes, it is.

19            MS. CARNESALE: Your Honor, we'd ask that that be  
20 marked the next State's exhibit.

21            MR. J. BAILEY: No objection.

22            THE COURT: Exhibit 13.

23            (Exhibit No. 13 was marked and filed.)

24            MS. CARNESALE: If I may approach, Your Honor, and  
25 publish that to the jury?

1 THE COURT: You may.

2 Q Again, Mr. Jackson or Lieutenant Jackson, that depicts  
3 Ms. Braswell actually lying in the bathtub and then the prone  
4 drawing is how you placed her on the floor; is that correct?

5 A Yes, yes.

6 Q And I believe at the bottom you signed and dated it  
7 December 14th, 2004, 9:18 a.m. Is that correct?

8 A Yes.

9 Q Is that when you drew it?

10 A Yes, it is.

11 Q Returning to when you entered the bathroom, did you  
12 notice anything unusual about the bathroom and the air that  
13 was in the bathroom?

14 A The room seems to have been humid or moist.

15 Q I'm sorry.

16 A I did notice that, that the room seemed to be humid or  
17 moist.

18 Q When did you first notice that?

19 A As soon as I walked in.

20 Q And you were the first --

21 A Into the bathroom, rather.

22 Q And you were the first person into the bathroom?

23 A Yes, as far as the fire department personnel, yes, I  
24 was.

25 Q Did you notice anything unusual about the water when



1       you got Ms. Braswell out of the bathtub?

2           A       The water -- the water was warm.

3           Q       Did it -- would you quantify that as warm as if you  
4       were going to take a bath? Bath water that warm?

5           A       With my gloved hands, I took hold to her legs and the  
6       water was warm. For me, I -- I felt that temperature was a  
7       temperature where I probably could take a bath in it.

8           Q       Not hot but warm?

9           A       It was warm, yes.

10          Q       And you stated you had gloved hands on?

11          A       Yes.

12          Q       What type of gloves do you wear?

13          A       Latex.

14          Q       Just those thin rubber gloves?

15          A       Exactly.

16          Q       Did you inform anyone about your feelings about the  
17       water and how warm it was?

18          A       No, no, no, I didn't.

19          Q       Okay.

20                   MS. CARNESALE: Your Honor, may I have one moment?

21                   THE COURT: You may.

22          Q       Lieutenant Jackson, you stated that you got Ms.  
23       Braswell out with the assistance of Mr. Tanzy; is that right?

24          A       Yes.

25          Q       Was she difficult to get out of the bathtub?

1 A No, no, she wasn't.

2 Q Do you recall approximately how tall she appeared to  
3 be?

4 A Estimating five-three, five-four.

5 Q A small woman?

6 A Yes.

7 Q Do you see any reason why it would have been difficult  
8 for someone to get her out of that bathtub?

9 A In my opinion, no.

10 Q Did you notice anything about her body and the  
11 condition it was in?

12 A Her body seem to me to be rigid or stiff, I should say.

13 Q And was that any indication to you of something?

14 A To me I felt that perhaps rigor mortis was setting in.  
15 I wasn't for sure but that's just what came to mind to me.

16 Q And if you would explain to the jury what is rigor  
17 mortis?

18 MR. J. BAILEY: Your Honor, he's not -- I'd object  
19 on the grounds that he's not qualified to give that kind of  
20 explanation to the jury. That would have to come in through a  
21 different witness.

22 MS. CARNESALE: Well, Judge, he used a term that  
23 everyone may not be familiar with and he obviously is familiar  
24 with it. He used the term.

25 MR. J. BAILEY: I'd ask for a cautionary

1 instruction then.

2 THE COURT: How many years have you been on the  
3 fire department?

4 WITNESS JACKSON: 21 years.

5 THE COURT: I think with his experience on the  
6 fire department, this is a term that he is capable of  
7 explaining. We're not talking about medical terms that only  
8 doctors would be capable of explaining. I think this is  
9 within his purview of experience and training. I'll overrule  
10 the objection.

11 MR. J. BAILEY: Very well, Your Honor.

12 THE COURT: Ask the question again if you would,  
13 please.

14 Q Can you explain to the jury, Lieutenant Jackson, what  
15 is rigor mortis?

16 A Rigor mortis is a state that all living creatures go  
17 through once they're deceased. I don't know about the medical  
18 side of it but that process is when the body -- the person is  
19 no longer alive, there's no blood flowing through the body and  
20 the process -- the body just -- the body stiffens up. The  
21 body stiffens up.

22 Q Do you recall what part of her body appeared stiff to  
23 you when you lifted her out of the bathtub?

24 A To me it was the lower extremities. That's the part  
25 that I handled. Just that part seemed -- seemed stiff.

1 Q Her legs?

2 A Yes.

3 MS. CARNESALE: Thank you. Your Honor, I'll pass  
4 the witness.

5 THE COURT: Mr. Bailey.

6

7 CROSS-EXAMINATION

8 BY MR. J. BAILEY:

9 Q Lieutenant Jackson, now you responded to this call, and  
10 I think it was your testimony that there were approximately  
11 six other fire department personnel that responded to the  
12 call; is that correct?

13 A Yes.

14 Q And when you arrived on the scene, the truth of the  
15 matter is that Mr. Braswell was outside frantically waving,  
16 trying to let y'all know that this was the house; is that  
17 correct?

18 A Well, I can't say that he -- I don't recall him  
19 frantically waving but he was out there. He was outside.

20 Q He was letting you know come on here, this is where it  
21 is; right?

22 A Yes.

23 Q And when you came into the house, you testified -- it  
24 was your testimony that he ushers you to the back, shows you  
25 where the bathroom is that's the subject of this lawsuit; is

1       that correct?

2       A     Yes. He directed us.

3       Q     And it was also your testimony I think you drew a  
4       sketch that in that bathtub that's still on the screen, that  
5       you found the decedent Ms. Sheila Braswell halfway in the tub,  
6       lower part of the body in the tub, the rest of her body is  
7       hanging on the side; is that correct?

8       A     Yes, sir.

9       Q     As if somebody had tried to get her out; is that  
10      correct?

11      A     Possibly.

12      Q     Okay. And you prepared or at least signed on to a  
13      report in this matter, did you not?

14      A     Yes, sir.

15      Q     And in that report, I think that you indicated or at  
16      least signed on the report, didn't you, that it appeared to be  
17      cardiac arrest? Isn't that what you all said on the report?

18      A     I -- I do not make --

19                   MS. WEIRICH: Objection, Your Honor, to the  
20      relevance.

21                   THE COURT: Overruled. You may ask.

22      Q     At that point in time, it appeared to you that this  
23      decedent died from cardiac arrest; is that correct?

24      A     I had no way of knowing that.

25      Q     Okay. You certainly wouldn't sign a report that you

1 didn't think was accurate, would you?

2 MS. WEIRICH: Objection, Your Honor.

3 MR. J. BAILEY: This is cross.

4 THE COURT: Overruled. You may ask.

5 A I signed the reports that the EMTs, firefighter  
6 paramedics prepare. My confidence is through them. And when  
7 they finished that report, my signature will go on it because  
8 I'm not -- I'm not capable to decide whether their report is  
9 wrong or truth. That's just --

10 Q But now you were the first one in; right?

11 A Yes, sir.

12 Q So it wasn't just their report. I mean, you were  
13 attesting to your observations, too, weren't you?

14 A Yes, sir.

15 Q And again, I ask you, it appeared -- it says -- do you  
16 remember signing a report that said it appeared that the  
17 decedent died from cardiac arrest?

18 A I don't recall all the facts as far as what was written  
19 down in the report, but if my signature is on that -- on that  
20 paper there, then I signed that.

21 MR. J. BAILEY: Your Honor, may I pass this to the  
22 witness?

23 THE COURT: You may.

24 Q Does that appear to be your signature on the bottom of  
25 that document?

1 A Yes, sir, that is.

2 Q And would you explain what that document is?

3 A This is the fire department's first respond to incident  
4 report that -- this is something that we all have to fill out  
5 when we make these type of incidents.

6 Q Now I gave you the bottom page. Let me pass you the  
7 rest of it. I didn't mean to give you half of a document.  
8 Tell me if that's the rest of the document.

9 A That looks familiar.

10 Q All right. And that's your signature at the bottom on  
11 the last page; is that correct?

12 A Yes, sir.

13 Q And would you read at the top where it says pertinent  
14 history. Do you see the term "cardiac arrest"?

15 MR. WEIRICH: Objection, Your Honor.

16 THE COURT: Sustained. If you would approach?

17 (Bench conference commenced.)

18 THE COURT: It's okay for you to ask him initially  
19 since his signature appears on it in my opinion. But once he  
20 explains that he's signed it as a supervisor but he isn't  
21 medically capable of testifying to or attesting to the  
22 specific medical conclusions that the EMT and medical people  
23 put on there, that's the end of it. You can ask them. You  
24 can subpoena them. I assume they are going to testify. They  
25 can testify. He's already explained his relationship to that

1 document. And that's the end of it.

2 MR. J. BAILEY: All right. Very well.

3 (Said bench conference concluded.)

4 Q You got an opportunity to review -- let me get that  
5 back from you. You got an opportunity and I think it was your  
6 testimony that you were one of the people, two of you who  
7 pulled the decedent out of the water; is that correct?

8 A Yes, sir.

9 Q Halfway out of the tub; is that correct?

10 A Yes, sir.

11 Q So you did get an opportunity to view the body of the  
12 decedent; is that correct?

13 A Yes, sir.

14 Q And she was nude; is that right?

15 A Yes, sir.

16 Q And would you describe for me if there was any jewelry  
17 on the decedent?

18 A No, sir, I don't recall any jewelry being on the  
19 decedent.

20 Q Okay. Do you not recall a necklace on her neck?

21 A I do not recall that.

22 Q What about body piercings?

23 A There was. There was body piercing.

24 Q Okay. And you don't remember a necklace on her?

25 A No, sir, I don't.



1 Q Now you testified earlier that the temperature of  
2 the -- a better word, I guess, in that bathroom was warm to  
3 you, kind of moist?

4 A Yes.

5 Q You don't know how they normally keep their house, that  
6 was the first time you were in the house; weren't you?

7 A Yes, sir, that was the first time.

8 Q And it was November; is that correct?

9 A Yes, sir.

10 Q And so you don't know what the temperature normally is  
11 in that room, do you?

12 A No, sir.

13 Q And of course, you didn't check to see what the water  
14 temperature was as it comes out the tank, did you?

15 A No, sir.

16 Q So you don't know how hot the water enters that tub, do  
17 you?

18 A No, sir.

19 Q And one last thing. You testified about at least -- I  
20 know it wasn't medical testimony but your perception as to an  
21 explanation of rigor mortis.

22 A Yes.

23 Q Not perception but your definition of rigor mortis; is  
24 that correct?

25 A Yes, sir.

1 Q But you can't tell us about how long it takes for rigor  
2 mortis to set in?

3 A Absolutely not.

4 Q Okay. So you don't -- you're not here to tell us how  
5 long Ms. Braswell had been in the water, are you?

6 A No, sir.

7 Q And likewise, I think this will be my last question of  
8 you, sir. You don't know what happened that day either, do  
9 you?

10 A No, sir, I don't.

11 Q You don't know how she died?

12 A No, sir.

13 Q You are just here to testify as to your observations;  
14 is that right?

15 A Yes, sir.

16 MR. J. BAILEY: Thank you. Pass the witness.

17 THE COURT: Any redirect?

18 MS. CARNESALE: Just briefly, Your Honor.

19

20 REDIRECT EXAMINATION

21 BY MS. CARNESALE:

22 Q Lieutenant Jackson, when you entered the house, did you  
23 notice if the entry and the rooms that you walked through to  
24 get to the bedroom, were those moist?

25 A No.

1 Q When did you first notice the moistness in the air?

2 A When I went -- when I entered the bedroom/bath area.

3 MS. CARNESALE: Thank you. Nothing further.

4 THE COURT: You may step down. Call your next  
5 witness.

6 MS. CARNESALE: Thank you, Your Honor. The State  
7 calls Baba Tanzy.

8

9 BABA TANZY

10 called as a witness, being first duly sworn, was examined and  
11 testified as follows:

12 DIRECT EXAMINATION

13 BY MS. CARNESALE:

14 Q Good afternoon, sir.

15 A Good afternoon.

16 Q Will you please state and spell your name for the  
17 record?

18 A Baba Tanzy. B-A-B-A T-A-N-Z-Y.

19 Q Mr. Tanzy, are you employed?

20 A Yes.

21 Q Where do you work?

22 A Memphis Fire Department.

23 Q How long have you worked for the Memphis Fire  
24 Department?

25 A Eight years.

1 Q And what is your occupation with the fire department?

2 A Firefighter EMT.

3 Q And an EMT, what is that? What is that exactly?

4 A Emergency Medical Technician.

5 Q So you have some medical training?

6 A Correct.

7 Q Can you explain to the jury what your training entails?

8 A We just basically make first-responder calls and treat  
9 signs and symptoms and make car wrecks, bandage wounds and,  
10 you know, stuff like that.

11 Q And do you assist paramedics?

12 A Yes, I do.

13 Q Paramedics have more extensive medical training than  
14 the EMTs; correct?

15 A Correct.

16 Q Have you been a firefighter and EMT for eight years?

17 A Yes.

18 Q On November 5th, 2004, were you called to the location  
19 of 8152 Creekside Circle North?

20 A Yes.

21 Q Approximately what time did you arrive at that  
22 location?

23 A Around four o'clock a.m.

24 Q And you were serving in your capacity as an EMT; is  
25 that right?

1 A Yes.

2 Q Did you ride on the fire truck or the ambulance?

3 A Fire truck first responder.

4 Q And did you ride with Lieutenant Jackson the gentleman  
5 who just left the courtroom?

6 A Yes, I did.

7 Q Was he your supervisor that night?

8 A Correct.

9 Q And did you know at that time what type of call you  
10 were responding to?

11 A Yes.

12 Q What type of call was it?

13 A It was a full-arrest call.

14 Q A what?

15 A Full arrest.

16 Q Full arrest. What does that mean?

17 A Party is not breathing.

18 Q And did the fire truck arrive before the ambulance or  
19 did they arrive together?

20 A We arrived, like, a minute before. They was right  
21 behind us.

22 Q Okay. And when you got there, you got off the truck.  
23 Did you see anybody outside?

24 A Yes, I did.

25 Q Who did you see?

1 A I seen the young lady's husband.

2 Q What was his name?

3 A Vern Braswell.

4 Q Did you actually know Mr. Braswell?

5 A No.

6 Q And he was outside?

7 A Correct.

8 Q What was he doing?

9 A Standing outside in his robe.

10 Q Okay.

11 A Trying to flag for us, wave for us to come on with the  
12 equipment.

13 Q And did you go inside the house?

14 A Yes.

15 Q What did you do when you went inside?

16 A First when we went in, we found out which room to go  
17 to. And once we went in, we saw that we had a party in the  
18 tub not responding.

19 Q I'm going to pass forward what's previously been marked  
20 as State's Exhibit No. 2. Is that the bathtub that you found  
21 the victim in?

22 A I -- I suppose.

23 Q Does that look like how it looked that night?

24 A Pretty -- yeah.

25 Q Is there anything in that picture that doesn't look

1 right?

2 A No, I mean, I just don't really remember what the tub  
3 looked like. I mean, I just knew she was in the tub.

4 Q And how was she situated? You may set that down on the  
5 table in front of you. How was she situated in the tub?

6 A In an awkward position. Her back was sort of facing  
7 the outside of the tub.

8 Q Okay. What did you do when you saw her in the tub?

9 A Checked for a pulse and she didn't have a pulse so I  
10 pulled her out of the tub.

11 Q And where was Vern Braswell at that time?

12 A I don't know.

13 Q When you pulled her out of the tub, what did you do?

14 A We took her in the bedroom and lied her down on the  
15 floor.

16 Q And then what?

17 A Started chest compressions while the paramedic got the  
18 monitor ready to put the monitor on her.

19 Q What is the monitor?

20 A It's a life pack. It's what we use to check to see if  
21 the patient has a rhythm, heartbeat.

22 Q You hadn't felt a pulse but you use the monitor also?

23 A To verify, yes.

24 Q Okay. And who was the paramedic who was preparing the  
25 monitor?

1 A It was Matt Hamm.

2 Q Did you notice anything unusual about the water when  
3 you pulled Ms. Braswell out of the bathtub?

4 A The water was warm.

5 Q When did you first notice the warmth of the water?

6 A When I first went in.

7 Q To pull her out?

8 A Right.

9 Q Were you wearing gloves?

10 A Yes.

11 Q Latex rubber gloves?

12 A Yes.

13 Q How warm was the bathtub?

14 A I couldn't give a degree, but according to what he told  
15 us, I felt the water should have been cold.

16 Q And what do you mean by "according to what he told us"?

17 A Well, he told us that she had went in and got in the  
18 tub at approximately 2 a.m. and we received the call at 4  
19 a.m.

20 Q And you felt that since two hours had passed --

21 A Right.

22 Q -- it was too warm for that much time to have passed?

23 A Correct.

24 Q Did you speak with the defendant about how she ended up  
25 in the bathtub?



1       A     No, he kind of told us on his own as we asked what  
2 happened.

3       Q     What did he say?

4       A     He told us that they had been having intercourse and  
5 that she had got out of the bed around two to take a bath  
6 because she was hurting and he continued laying in the bed and  
7 went to sleep. He woke up a little bit before four and  
8 noticed she wasn't in the bed and he got -- went up to go look  
9 for her and that's when he found her in the tub and he called  
10 911.

11       Q     Do you see the man in the courtroom today who made  
12 those statements to you? If the TV is in your way, you can  
13 step down.

14       A     Yes.

15       Q     Can you point to him and tell me what he's wearing?

16       A     A suit behind this gentleman here.

17               MS. CARNESALE: Your Honor, may the record reflect  
18 he's identified Mr. Vern Braswell.

19       Q     Mr. Tanzy, when you pulled Ms. Braswell out of the  
20 bathtub, did you notice any markings on her body?

21       A     Not at that time, no.

22       Q     When did you notice, if you did?

23       A     After we laid her down.

24       Q     What did you notice?

25       A     She had a necklace on with a little charm on it, and

1 she had just a little light red marks around her neck.

2 Q I'm going to pass forward a photograph to you. Ask you  
3 to take a look at that picture. Do you recognize what's  
4 depicted in that photograph?

5 A Repeat that.

6 Q Do you recognize what's depicted in that picture?

7 A Yes.

8 Q Is that the woman Sheila Braswell that you pulled out  
9 of the bathtub on November 5th, 2004?

10 A Yes.

11 MS. CARNESALE: Your Honor, I'd ask that that be  
12 marked as the next exhibit.

13 THE COURT: Okay.

14 (Exhibit No. 14 was marked and filed.)

15 MS. CARNESALE: Your Honor, if I may approach and  
16 publish that to the jury on the DOAR?

17 THE COURT: You may.

18 Q And, Mr. Tanzy, if you would, it's a little difficult  
19 to see with the light but if you would, step down and point to  
20 the jury where you saw -- and if you would, stand right here  
21 and point on the photograph where you see the red markings on  
22 her neck. Let me step out of the way.

23 A You can't really tell on this picture.

24 Q If you take it off the lamp, can you see in the  
25 picture?

1 A Yeah, you can see when you hold it up in the light.

2 Q Okay. If you would now place it back there and then  
3 point to where you saw it as you were holding it.

4 A See, it's one right here and another right over here.

5 Q Now it appears to me as if you're pointing on either  
6 side of her neck?

7 A Yes.

8 Q The left and the right side. Okay. I'm going to pass  
9 forward another photograph to you, Mr. Tanzy. Is that a  
10 different angle of Ms. Braswell after she was taken out of the  
11 bathtub on that date?

12 A Yes, it's a different angle.

13 Q Can you see the markings on her neck in that photograph  
14 as well?

15 A Yes.

16 MS. CARNESALE: Your Honor, I'd ask that be marked  
17 the next exhibit.

18 THE COURT: Okay.

19 (Exhibit No. 15 was marked and filed.)

20 MS. CARNESALE: May I approach, Your Honor, and  
21 publish that to the jury as well?

22 THE COURT: You may.

23 Q Mr. Tanzy, again, if you would step down and if you  
24 can, indicate to the jury where the markings on her neck were?

25 A On her right side coming down about here and on the

1 left side coming down about right here. And on this picture,  
2 you can see the impression from the charm that she had on the  
3 chain also.

4 Q And where would the impression be?

5 A Right there.

6 Q In the center of her chest?

7 A Correct.

8 Q Thank you. You may take your seat. Mr. Tanzy, when  
9 you pulled her out of the bathtub, did you notice anything  
10 unusual about her body?

11 A Yes.

12 Q What did you notice?

13 A She was stiff, slightly stiff.

14 Q Slightly stiff?

15 A Yes.

16 Q What portion of her body did you think was slightly  
17 stiff?

18 A At that time I could only tell that her upper arms.

19 Q Her arms?

20 A Correct.

21 Q Is that the portion that you handled?

22 A Correct.

23 Q Did that mean anything to you as an EMT?

24 A It's a sign of rigor mortis.

25 MS. CARNESALE: Your Honor, at this time I'd ask

1       that these pictures be passed to the jury since the glare of  
2       the DOAR equipment.

3               THE COURT:   That would be Exhibits 14 and 15?

4               MS. CARNESALE:   Yes.

5               THE COURT:   All right.

6                               (Jury viewed exhibits.)

7       Q       Mr. Tanzy, did you notice, other than the marks on her  
8       neck, any other markings or anything unusual on Ms. Braswell?

9       A       No.

10      Q       Did you ever look into her eyes?

11      A       Yes.

12      Q       Did you see anything unusual in her eyes?

13      A       She had, like, a blood vessel had burst in her eyes.

14      Q       When did you notice the blood vessels in her eyes?

15      A       After we stopped working her.

16      Q       Was that visible in the photographs I showed you?

17      A       I didn't pay attention.   I was looking for the red  
18      marks.

19      Q       Did you have to pull up her eyelids to see the blood  
20      vessels in her eyes?

21      A       No, her eyes were open.

22      Q       I'm going to pass back to you the photographs then that  
23      we marked Exhibit 14 and 15 and ask you to look specifically  
24      into her eyes.   Can you see the broken blood vessels there?

25      A       I can't tell on these two pictures, no.

1 Q Thank you. You may set them down. As an EMT did those  
2 blood vessels mean anything to you?

3 A Yes.

4 Q What did they signify?

5 A Sign of suffocation or asphyxiation.

6 Q Is that something you learned in your training as an  
7 EMT?

8 A Yes.

9 Q Have you seen blood vessels in the eyes broken in other  
10 cases where a person has been strangled?

11 A This was the first.

12 Q Had you ever met Mr. Vern Braswell before?

13 A I've seen him.

14 Q And can you tell the jury where you have seen him?

15 A Out riding motorcycles.

16 Q Do you ride motorcycles?

17 A Yes, I do.

18 Q And is that -- you've seen him at gatherings where  
19 people ride motorcycles?

20 A Yes.

21 Q Were you friends with him?

22 A No.

23 Q Had you ever spoken to him?

24 A Just hey, you know.

25 Q When you arrived at his house that evening, did you

1 recognize him?

2 A Yes, I did.

3 Q Did you see the children at the house?

4 A No, I did not.

5 Q Did you know where they were?

6 A I heard that they was next door.

7 Q But when you came in the house they were gone?

8 A I'm not for sure.

9 Q You never saw them?

10 A Never saw them.

11 Q Did you know Ms. Sheila Braswell?

12 A No, I did not.

13 Q Had you ever seen her before?

14 A No.

15 MS. CARNESALE: Thank you. Your Honor, I'll pass.

16 THE COURT: Mr. Bailey.

17

18 CROSS-EXAMINATION

19 BY MR. W. BAILEY:

20 Q Mr. Tanzy, how long had you gone to EMT school?

21 A Went through the fire department training around 19  
22 weeks.

23 Q And you say that you've seen blood vessels in eyes or  
24 the sort that you saw in Ms. Braswell?

25 A No, I said that was the first.

1 Q That was the first?

2 A (Witness nodded head up and down.)

3 Q And you haven't been trained to diagnose or to tell  
4 what those blood vessels represent, do you -- have you?

5 A No, it's just a sign. All I treat are signs and  
6 symptoms.

7 Q I see. So have you ever seen a person who has been  
8 deprived of oxygen?

9 A Yes.

10 Q And is that the kind of symptom you see?

11 A And they turn blue in the face.

12 Q Did you see any blueness -- bluishness on Ms. Braswell?

13 A No, I did not.

14 Q So all you know is that there at some point was oxygen  
15 deprivation; is that a fair statement?

16 A Correct.

17 MR. W. BAILEY: Thank you.

18 THE COURT: Any redirect?

19 MS. CARNESALE: No, sir.

20 THE COURT: You may step down. Call your next  
21 witness.

22 MS. CARNESALE: State calls Matt Hamm.

23

24

25



1 MATT HAMM

2 called as a witness, being first duly sworn, was examined and  
3 testified as follows:

4 DIRECT EXAMINATION

5 BY MS. CARNESALE:

6 Q Good afternoon, sir. Will you please state and spell  
7 your name for the record?

8 A Matthew Wayne Hamm. First name is Matthew,  
9 M-A-T-T-H-E-W. Wayne is W-A-Y-N-E. Hamm, H-A-M-M.

10 Q Where are you employed, Mr. Hamm?

11 A For the Memphis Fire Department.

12 Q What do you do for the fire department?

13 A I'm a firefighter paramedic.

14 Q How long have you been with the firefighters?

15 A About almost 11 years, about ten and a half.

16 Q And you're a paramedic as well as a firefighter?

17 A Yes, ma'am.

18 Q That means you have medical training?

19 A Yes, ma'am.

20 Q Can you tell the jury the extent of that training?

21 A It's basically when I did it, it was about 13 years ago  
22 and went through school it was two full years of college, EMT  
23 and then an intermediate and then a paramedic.

24 Q And what type of courses do you take?

25 A We take advance life support, pediatric advanced life

1 support, drug therapy, anatomy, physiology, illness, sickness  
2 training, trauma, you know, a whole bunch of stuff packed in.

3 Q So in other words, you don't just put out fires when  
4 you respond to calls but you also treat people who are  
5 injured?

6 A Correct.

7 Q And on November 5th, 2004, were you acting in that  
8 capacity when you responded to a call at 8152 Creekside Circle  
9 North?

10 A Yes. I was on the ambulance riding as a paramedic that  
11 day, night.

12 Q And who was on the ambulance with you?

13 A It was EMT Basic Kevin Moore.

14 Q And a fire truck responded also; is that correct?

15 A Correct.

16 Q And when you're on the ambulance, do you have equipment  
17 with you?

18 A Yes, ma'am.

19 Q When you got to the scene, what number in line were you  
20 into the house?

21 A I believe I was the third in line.

22 Q And the man who just left the courtroom Baba Tanzy and  
23 Lieutenant Fred Jackson, they also went into the house; is  
24 that right?

25 A Yes.

1 Q Did they go in before you?

2 A Yes.

3 Q When you went into the house, what did you find?

4 A I found a female laying on her back on the floor in, I  
5 believe, it was the bedroom.

6 Q Did you ever go into the bathroom?

7 A After a little while, yes. I don't remember exactly  
8 how long I had been there before I did.

9 Q She was on the floor when you found her?

10 A Yes, ma'am.

11 Q Let me pass forward what's been previously marked  
12 State's Exhibit No. 15. Is that who you found on the floor  
13 there?

14 A Yes, ma'am.

15 Q And is that how she appeared early that morning?

16 A Yes.

17 Q This was approximately what time that you got there?

18 A It was about four in the morning, around 4:05 or so, a  
19 little bit right at four o'clock in the morning.

20 Q And if you would, when you see the victim Ms. Braswell  
21 laying on the floor, what do you do?

22 A Well, first we check to see if they're breathing. If  
23 they're not breathing, then we check for a heartbeat. If not  
24 a heartbeat then if you can -- I put what we call a  
25 defibrillator on her or a heart monitor. That's what the --

1 if you looked at it, the little stickers are on her. And then  
2 I see if she has a rhythm that we can treat or not -- a  
3 treatable rhythm would be if it has what we call PQRS waves.  
4 If there's any waves in it, then there's something we can do.  
5 But if it's the flat line, we call that a systole, there's  
6 nothing we can do for that usually.

7 Q That means the heart is not beating at all?

8 A Well, there's no electrical activity of the heart.

9 Q And you can tell that by putting the monitor on her and  
10 that's what those little sticky things on her are?

11 A Yes.

12 Q Did you do all those things for Ms. Sheila Braswell?

13 A Yes.

14 Q And was there any sign of life?

15 A No.

16 Q Other than that, did you notice anything else about her  
17 that indicated to you that she might be dead?

18 A Yes. She was in what we call "rigor mortis,"  
19 stiffening of the joints or the body, arms and legs and jaw.  
20 When those get -- when that gets to that point -- it's  
21 different for everybody but when it gets to that point,  
22 they've been deceased for a while and there's nothing we can  
23 do at all for --

24 Q Based upon the training that you have in your  
25 experience as a paramedic, the fact that rigor mortis had set

1 in, could you estimate how long she had been dead when you saw  
2 her?

3 A Not a definitive. And like I said, it's different for  
4 everybody. And plus, they pulled her out of the bathtub so I  
5 don't know.

6 Q Does that affect rigor mortis setting?

7 A It can but I'm not -- that's above what I know so I'm  
8 not for sure.

9 Q Did you examine her body?

10 A Uh-huh.

11 Q Did you notice anything else about her?

12 A There was some marks on her neck that -- we were  
13 actually on the scene over an hour. And when we first got  
14 there we couldn't see them but after being on the scene for so  
15 long they became more noticeable and also checked her eyes.  
16 And when I checked her eyes, she had this condition called  
17 "petechiae," which is busted blood vessels of the cornea, the  
18 white part of the eye, which indicates a strangulation-type  
19 trauma.

20 Q The petechiae occurs when someone has been strangled?

21 A That's one cause of it, yes.

22 Q Had you ever seen that in someone before?

23 A I have seen that before.

24 Q I'm sorry?

25 A I have seen that before, yes.

1 Q And when did you notice the broken blood vessels in her  
2 eyes?

3 A That was a little -- maybe 15 to 20 minutes later  
4 after.

5 Q Were they visible or did you have to look into her eyes  
6 and lift her eyelids up?

7 A You had to lift her eyelids up. You couldn't see them  
8 without lifting her eyelids.

9 Q And if you would just demonstrate on yourself where  
10 were they on the eye?

11 A They were in the upper half of the cornea, the upper  
12 half of the eye, of the white part of eye.

13 Q In both eyes?

14 A Yes.

15 Q The markings on her neck, if you would again  
16 demonstrate on yourself on your neck where you observed those?

17 A There was one across the -- I don't remember exactly  
18 where at -- but it was just a thin mark across and then one  
19 was down -- there were three marks. As I say one was across,  
20 one was kind of down at an angle and I can't exactly remember  
21 where the third one was at. I think it was a little bit lower  
22 around down this way.

23 Q Are you able to see the markings on her neck in that  
24 photograph?

25 A Yes. Yeah.

1 Q The markings that appear in that picture, is that how  
2 you recall?

3 A Right, correct.

4 Q Did you ever speak to Mr. Vern Braswell, the husband of  
5 the deceased?

6 A We were all kind of talking to him at the same time,  
7 but basically we just asked him what had happened.

8 Q And do you recall what he said?

9 A Yes. He said approximately two hours prior to him  
10 calling us his wife wanted to take a bath. And he said that  
11 was about two hours before we got there, which would have made  
12 it around two o'clock. And I can't remember exactly if he  
13 said he went back to sleep or just let her be, but then two  
14 hours after that he checked on her, found her not breathing  
15 and then called us.

16 Q Did you ever go into the bathroom?

17 A Yes.

18 Q Why did you go into the bathroom?

19 A Well, we were just looking around for any -- because we  
20 were -- it was still kind of unclear what was going on so we  
21 kind of, you know, looked around to see if there was maybe  
22 medicine bottles or just anything, you know, medically related  
23 to the patient since we were -- we were confused as to why  
24 this had happened ourselves so, you know, we were trying to  
25 figure something out.

1 Q And did you ever touch the water that was in the  
2 bathtub?

3 A Well, when they pulled her out, Baba Tanzy and  
4 Lieutenant Jackson, they said they had mentioned the water  
5 being hot and then I did go in there -- again, I don't  
6 remember exactly how long -- and stick my -- I had a gloved  
7 hand, stuck that in there and it was still hot. It was more  
8 hot. It was more than warm. It was hot.

9 Q Would you have -- would that water have been warm  
10 enough for you to take a bath in to your own personal liking?

11 A It would have been too hot for me.

12 Q Did you actually test the temperature of the water?

13 A Yes. One of the detectives asked me to take the  
14 temperature of the water, and it was 94.6 and that was about  
15 an hour after we had been there.

16 Q You arrived around 4 a.m.?

17 A Right. And it was at 5:07, I believe, in the morning.  
18 And it was 94.6.

19 Q 94.6 degrees Fahrenheit?

20 A Correct.

21 Q If you would look at the photograph that you have in  
22 your hand. It appears that there is, like, a substance in Ms.  
23 Braswell's mouth. Can you explain what that is?

24 A White frothy substance. In this case it was water or I  
25 don't know, you know, it was water, more than likely the bath



1 water, but from moving her out of the tub and moving her  
2 around a little bit and we could hear her kind of a gurgling  
3 noise and that was water in her lungs. Like I said, we moved  
4 her around. You know, they were kind of -- you know, they  
5 yanked her, pretty much yanked her out of the tub. I mean,  
6 we're not -- you know, when we know you're not breathing and  
7 heart is not beating, we're not -- you know, we're trying to  
8 hurry up and do what we need to do as fast as we can so we're  
9 not too gentle is what I mean. I mean, we're gentle enough  
10 not to hurt you anymore.

11 Q Want to get the treatment started --

12 A -- started right away, correct.

13 Q And did that white froth in her mouth indicate anything  
14 to you?

15 A Other than water in her lungs. She had water in her  
16 lungs.

17 MS. CARNESALE: Thank you, Mr. Hamm. I'll pass.

18 THE COURT: Mr. Bailey.

19 MR. J. BAILEY: Would Your Honor hold on just one  
20 minute?

21

22 CROSS-EXAMINATION

23 BY MR. W. BAILEY:

24 Q Mr. Hamm, I believe you said strangulation is one cause  
25 that you saw that would cause those signs that you saw?

1 A Yes, sir.

2 Q Am I correct?

3 A Yes, sir.

4 Q Could have been other causes, too, couldn't it?

5 A Mainly, it's what we're taught is strangulation. Other  
6 signs I'm not -- or causes, I mean --

7 Q But the bottom line is oxygen deprivation to the brain,  
8 isn't it?

9 A Correct.

10 Q Suffocation?

11 A Right.

12 Q Okay. Now are you familiar with autoasphyxiation?

13 A Yes, yes.

14 Q Have you had the occasion to run across cases of  
15 autoasphyxiation?

16 A Personally, no. I've just read about them.

17 Q Read about them and studied about them?

18 A Correct.

19 Q Tell the jury what autoasphyxiation is, what you know  
20 about it.

21 A It's a form of sexual heightened pleasure when somebody  
22 -- they cut off the oxygen to the brain, not fully, but it's  
23 supposed to heighten sexual pleasure. And it's a -- a form of  
24 putting your hands or tying a towel or rag or rope or  
25 something around your neck to cut off some of the oxygen to

1 your brain to heighten sexual pleasure.

2 Q And sometimes the result is accidentally fatal, isn't  
3 it?

4 A Yes.

5 MR. W. BAILEY: No further questions.

6

7 REDIRECT EXAMINATION

8 BY MS. CARNESALE:

9 Q Mr. Hamm, this is just something you've read about?

10 A Yes, ma'am.

11 Q Never seen from a medical standpoint?

12 A Right, never have made a personal call on my own of  
13 that type.

14 Q And it's a type of choking involving --

15 A A number of different. Ropes, towels, hands or  
16 whatever.

17 Q Have you ever read about anything using as delicate as  
18 a necklace choking someone?

19 A No.

20 MS. CARNESALE: Nothing further.

21 THE COURT: You may step down. Call your next  
22 witness.

23 MS. WEIRICH: State calls Officer Galloway.

24

25

1

OFFICER GALLOWAY

2

called as a witness, being first duly sworn, was examined and  
3 testified as follows:

4

DIRECT EXAMINATION

5

BY MS. WEIRICH:

6

Q Good afternoon.

7

A Good afternoon.

8

Q Would you please tell the jury your name and spell your

9

first and last names for the court reporter?

10

A My name is David Galloway. D-A-V-I-D G-A-L-L-O-W-A-Y.

11

Q You're obviously with the Memphis Police Department.

12

A Memphis Police Department, yes, ma'am.

13

Q How long have you been with the department?

14

A About nine years now.

15

Q Where are you currently assigned?

16

A I'm assigned to crime scene investigation.

17

Q All right. How long have you been with crime scene?

18

A A little over five years. A little over five years.

19

Q What does crime scene do?

20

A Basically, we come into a scene wherever a crime has

21

been committed and we take photographs or in the case of a

22

homicide we might -- or suspicious death, we might do a

23

sketch, plus photographs and collect any evidence available.

24

Q All right. Back on November 5th, 2004, were you

25

assigned to the crime scene unit?

1 A Yes, ma'am.

2 Q Were you working that morning?

3 A Yes, ma'am.

4 Q Were you asked to go to a home on Creekside Circle  
5 North in Shelby County?

6 A Yes, ma'am.

7 Q Did you go to that home?

8 A Yes, ma'am.

9 Q Was anyone with you?

10 A I had Officer Hill met me at the scene and he's also in  
11 crime scene, yes.

12 Q Tell the jury what was going on there when you got  
13 there. Were you one of the first people to get to the scene  
14 or were there lots of people already there by the time you got  
15 there?

16 A There were people already there by the time I got  
17 there; uniform patrol, I think Lieutenant Bullard was the  
18 supervisor on the scene, a few other officers. I don't  
19 remember exactly who.

20 Q What is your responsibility when you walk into a scene  
21 like that?

22 A Well, once the officers give me an idea of what's going  
23 on at the scene, I'll look around for myself to find out what  
24 I can do to capture the scene as it was at that particular  
25 time since it was a person that was deceased.

1 Q Was the victim's body still there?

2 A Yes, it was.

3 Q All right. And the scene that we're talking about  
4 here, are we just talking about one particular room or are we  
5 talking about the entire house? How do you determine?

6 A In this case we are basically dealing -- we were  
7 basically dealing with the bedroom and the master bath that's  
8 adjoined with it.

9 Q You indicated that sometimes with a homicide or with a  
10 deceased body you make a sketch?

11 A Yes, I do.

12 Q Did you do that in this case?

13 A Yes, ma'am.

14 Q I'm going to pass you a piece of paper.

15 MR. W. BAILEY: Excuse me. Would you mind passing  
16 the documents to us so we can see them first? I don't know  
17 whether -- I assume it's the same document.

18 MS. WEIRICH: That's it.

19 Q Do you recognize that?

20 A Yes, ma'am.

21 Q What is that?

22 A This is a sketch I made at that particular location.

23 MS. WEIRICH: Judge, at this time if we could have  
24 that marked as Exhibit 16.

25 (Exhibit No. 16 was marked and filed.)

1 Q How do you go about making that sketch?

2 A Basically, we work from -- we look at where the body is  
3 located and then we'll try to put in information that might be  
4 pertinent to investigators as far as recapturing where the  
5 victim was lying, if they have to come back a week later or a  
6 day later or what have you, and we'll put in some items that  
7 may or may not be important but at the same time they were in  
8 the scene or in that area. But -- and we'll make some -- take  
9 some measurements to help with that.

10 Q Okay. And do you actually get a ruler and measure  
11 things?

12 A Yes, ma'am, just a tape measure in this case.

13 Q Okay. The -- where the body is depicted in that  
14 sketch, is that where the body was when you got there?

15 A Yes, ma'am.

16 Q In other words, you don't go back and try to recreate a  
17 scene?

18 A No, ma'am.

19 Q You draw it as you see it?

20 A Yes, ma'am.

21 Q All right.

22 MS. WEIRICH: Judge, may I publish that?

23 THE COURT: You may.

24 MS. WEIRICH: If he may be allowed to step down?

25 THE COURT: He may.

1 Q Point for the jury -- and you might have to slide it up  
2 and down but for now we'll do the top half of it. What is the  
3 jury looking at there? Actually, let me start with the  
4 heading. What does that heading tell you?

5 A Okay. It's a DOA unknown basically. We're saying at  
6 that location we wasn't sure, you know, what was the victim's  
7 cause of death at that time. So we made a sketch just  
8 depicting what the area where she was last, you know, where  
9 she was -- we was dealing with the bedroom and the master  
10 bath.

11 Q All right. Those numbers there in the key, what are  
12 those?

13 A Number one is always, generally speaking, I shouldn't  
14 say always but generally speaking is the victim herself. And  
15 number two was an item of Skyy Blue beverage bottle, which I  
16 think is some type of liquor or something. The same with  
17 three was a Skyy Blue beverage bottle, and T was a tile that  
18 was located in the scene.

19 Q All right. Did you measure the bathtub?

20 A I actually measured to the rims of the bathtub where it  
21 comes wall to wall.

22 Q All right. I'm going to pass you what's been marked as  
23 Exhibit 2. Do you recognize that?

24 A Yes, ma'am.

25 Q Is that the bathtub? Did you take that picture?



1 A No, ma'am, I didn't.

2 Q Did a crime scene officer?

3 A I believe so.

4 Q Okay. Is that the bathtub that you measured that's  
5 shown in the sketch?

6 A Yes, ma'am.

7 Q All right. If you could place the photograph down,  
8 that might be a better -- and explain to the jury what you  
9 mean by measuring from wall to wall?

10 A Okay. Where this tile is cut, the lower part right  
11 below the --

12 Q If you could lower it a little bit so the jury could  
13 see the whole thing.

14 A Okay. This lower end here will go from the inner side  
15 of the bathtub to this -- actually not to the wall in this  
16 case because there's a border before the wall. So it will be  
17 to that border, from border to border.

18 Q And how long was it?

19 A We've got it measured at five-feet-one inch and  
20 lengthwise, we measure from the edge of the tub to the border  
21 which would be two-feet-ten inches.

22 Q For the width?

23 A For the width going from north to south.

24 Q Thank you. I'll take that photograph back. And if you  
25 could slide the sketch up. What is the -- and if it helps

1     you, you can look at the Judge's screen to make sure the jury  
2     is seeing what you are talking about. What does the bottom  
3     portion of that sketch tell us?

4         A     Okay. This is a bedroom where the victim was lying  
5     when I came into the scene. And you can see where the victim  
6     is pretty much. We measured from the victim's feet, which  
7     were from the south to north to that doorway. The doorway was  
8     actually even with that measuring point. And from her head to  
9     the wall going from her head to the south end would be six  
10    feet from that location. And then we measured from east to --  
11    from east to west.

12        Q     I'm sorry. What was that?

13        A     We measured from her head to the west -- west side. I  
14    believe it was the west side of the room.

15        Q     Okay. And is there anything on the bottom further down  
16    on the sketch or is that the end of the sketch where it shows  
17    the hallway closet?

18        A     Yes, that's the hallway leading to the bedroom and  
19    there's a closet in that hallway, which just letting you know  
20    it was there.

21        Q     All right. You may have your seat. Did you dust for  
22    prints?

23        A     No, ma'am.

24        Q     Why?

25        A     Generally, if there is a reason for prints on a case as

1 this, a secondary unit will come in and do that on another  
2 date.

3 Q Were there any signs of any forced entry?

4 A Not that I know of or reported to me.

5 Q All right. If they had been reported to you, would you  
6 have dusted yourself or had someone come to dust?

7 A We would have probably dusted that day if it was  
8 reported to you, you know, as apart of the case itself right  
9 away since it was -- I believe it was kind of cool that night  
10 so we probably would have dusted to try to get it while it's  
11 fresh.

12 Q All right.

13 A That morning.

14 Q I'm going to pass you eight photographs. I pass you  
15 these photographs, Officer Galloway, and ask you to look  
16 through them for me first.

17 A Okay.

18 Q Do you recognize those?

19 A Yes, ma'am.

20 Q What are they?

21 A These are the photographs that I guess would best  
22 depict what the bedroom and that bathroom looked like at the  
23 time that I was on the scene.

24 Q All right.

25 MS. WEIRICH: Judge, I'd ask that those eight

1 photographs be moved into evidence as the next numbered  
2 exhibits.

3 THE COURT: All right.

4 (Exhibit Nos. 17-24 were marked and filed.)

5 MS. WEIRICH: May I publish those, Your Honor?

6 THE COURT: You may.

7 Q Again, Officer Galloway, if you will --

8 MS. WEIRICH: May he be allowed to step down, Your  
9 Honor?

10 THE COURT: He may.

11 Q What is the jury looking at in Exhibit 24?

12 A This is the little, I guess, like a vanity inside of  
13 the bathroom.

14 Q In the same bathroom area where the bathtub was?

15 A Yes.

16 Q That they've seen the picture of?

17 A Yes.

18 Q All right. And Exhibit 23?

19 A This is the victim lying on the floor in the bedroom.

20 Q All right. If we were to -- what's down that hallway  
21 there?

22 A Okay. That is leading to the bathroom itself.

23 Q Exhibit 22?

24 A That is the bathtub that I did measurements of earlier.

25 Q Is that the water as you found it?

1 A Yes.

2 Q All right. Exhibit 21?

3 A That is a bed in the bedroom as it was that particular  
4 day.

5 Q All right. Exhibit 20?

6 A Yes, that's the dresser and the ironing board and the  
7 Skyy Blue bottle that was on the ironing board.

8 Q All right. Is that the same Skyy Blue bottle that you  
9 indicated in the crime scene sketch?

10 A Yes, that's one of them. There was two of them  
11 indicated in that sketch.

12 Q Again what is that a picture of? I'm sorry, for the  
13 record that is Exhibit 19.

14 A That's the dresser in the bedroom showing the big  
15 screen television and the ironing board again.

16 Q All right. Exhibit 18?

17 A 18 is showing the bathtub. That's the side of it  
18 showing the tiles down the edge of the bathtub.

19 Q And is there anything indicated from the sketch in that  
20 photograph down on the floor?

21 A I would have to look at the sketch to see if we have  
22 anything. Item three, yes, that's the tile -- excuse me.  
23 That was a bottle, the Skyy Blue bottle right here.

24 Q Move that up for the jury to see it. Where is the  
25 bottle?

1       A     Okay. Right below the tub. Right below the tub by  
2     some spray bottle.

3       Q     And Exhibit 17. What is the jury looking at there?

4       A     Okay. That is the complete -- I think that is the  
5     complete vanity set that's inside the -- the mirror is  
6     actually in the picture showing a back shot.

7       Q     Is that the same bathroom area that we've been talking  
8     about?

9       A     Let me go back to one photograph to make sure that I'm  
10    --

11      Q     Sure. I'll give you this stack. Yes, sir.

12      A     I'm not really sure about this one.

13      Q     Is it indicated in your sketch?

14      A     That's what -- well, no. It's nothing in here that I  
15     have that I can recall that's in my sketch so I'm not really  
16     -- I wouldn't want to say for sure. It looks like the vanity  
17     in the corner but I'm not 100 percent sure.

18      Q     Do you remember a vanity in the corner?

19      A     Yes, it's kind of an L-shape that I did in the sketch,  
20     but I -- I'm not really 100 percent sure.

21      Q     Okay. All right. Thank you. I believe that was all  
22     of the pictures.

23      A     Okay.

24      Q     I'm going to ask that this bag be passed to you,  
25     Officer Galloway.

1                   MR. J. BAILEY: Let us take a look at that,  
2 please.

3           Q     On the outside of that bag is there an identifying tag?

4           A     Yes, ma'am. There should be another one. Here it is  
5 right here. Yes, ma'am.

6           Q     And is that tag -- was it filled out by you or someone  
7 else?

8           A     This was filled out by me.

9           Q     All right. What information is contained on there?

10          A     Okay. First of all it has the receipt number, which  
11 the property room would give us when we tag it into the  
12 property room, myself and Officer Hill's IBM number and  
13 information about the victim and the location.

14          Q     All right. Does every case have its own property  
15 receipt number?

16          A     Yes, it does.

17          Q     And if you could look inside the bag and tell me if you  
18 recognize what's in it?

19          A     Okay. This is the Skyy Blue bottle. Do you want me to  
20 take it out?

21          Q     Please.

22          A     Skyy Blue bottle I mentioned earlier. And this was the  
23 one from the bathroom floor by the bathtub.

24          Q     All right.

25          A     Okay. This is Skyy Blue bottle that was sitting on the

1 ironing board.

2 Q Yes, sir.

3 A In the bedroom.

4 MS. WEIRICH: Judge, if we could have that marked,  
5 please, collectively as Exhibit 25.

6 THE COURT: 25.

7 (Exhibit No. 25 was marked and filed.)

8 Q And, Officer, are those the same Skyy Blue bottles that  
9 the jury has seen depicted in the photographs and on the crime  
10 scene sketch that you drew?

11 A Yes, ma'am.

12 MS. WEIRICH: Your Honor, I'll pass the witness.

13 THE COURT: Mr. Bailey.

14

15 CROSS-EXAMINATION

16 BY MR. J. BAILEY:

17 Q Now, Officer Galloway, it was your testimony during  
18 direct that -- I think you testified that it's your job to try  
19 to recapture the scene so that if the detectives who are case  
20 officers have to come back and take a look at it, they're able  
21 to recreate the scene. You don't recreate it but you try to  
22 capture it as it is for purposes of the detectives'  
23 investigation?

24 A Yes, with the combination of sketch and photographs it  
25 should.



1 Q And of course have you been trained in crime scene  
2 work?

3 A Yes, sir.

4 Q And isn't it true that when an officer is on a crime  
5 scene that you want to secure the area because you don't want  
6 that crime scene disturbed as little as possible; is that  
7 correct?

8 A Yes, officers on the scene, initial officers on the  
9 scene should secure the scene.

10 Q All right. And there's some other things that are done  
11 in furtherance of investigation, such as -- and you tell me if  
12 this is true -- such as I think the bags were placed on the  
13 hands of the decedent so that when the decedent was shipped to  
14 the medical examiner, whatever might be under the nails and so  
15 forth could be preserved; is that correct?

16 A She should, yes.

17 Q That was done in this case, too, wasn't it?

18 A I believe so.

19 Q All right. And that's a precautionary measure to  
20 preserve what might be under the nails, if there was skin or  
21 blood or what have you; is that correct?

22 A Yes.

23 Q And likewise, now I know there was some testimony about  
24 you all didn't call in a fingerprint team or whatever you call  
25 them, fingerprint -- you didn't call anybody to dust for

1 latent prints; is that correct?

2 A No, I didn't.

3 Q What about those Skyy bottles? Did you all -- did you  
4 have those examined for prints?

5 A Actually, it was up to the investigator. If he felt he  
6 or she felt that they needed to be examined, they could have  
7 examined them the next day.

8 Q And I think --

9 A That it was collected.

10 Q I didn't mean to cut you off.

11 A Once they collect it, they're in our custody so it's  
12 not an extreme rush for that. But if the investigator sees a  
13 reason to have them processed, they can just send them to the  
14 lab to be processed.

15 Q And it would tell us whose fingers, if they are  
16 examined for prints, it might tell us who handled that bottle?

17 A Possibly, yes.

18 Q Now also, you used the term on direct examination that  
19 you tried to preserve the scene for pertinent things, meaning  
20 if it seems like it's relevant to this investigation, you try  
21 to preserve it; right?

22 A Yes.

23 Q And you were asked did you check for signs of forced  
24 entry. And I think you said you didn't see any.

25 A No. And generally, the investigators were on the

1 scene. Officers who were securing the scene, they would  
2 probably have -- they would have already checked for that  
3 unless there was a reason why they wouldn't have and they  
4 would have told me, well, we have some questions about this  
5 place, this location or that location.

6 Q Truth of the matter is that while you were on the  
7 scene, you all thought this was a drowning, isn't that true?

8 A I wasn't sure what it was.

9 Q Okay. Well you all didn't look to see whether any  
10 intruders had come in, did you?

11 A I didn't.

12 Q They didn't tell you to go and check the back door and  
13 take pictures of the back door or front door or all the  
14 windows, did they?

15 A Nobody made any mention of that.

16 Q And there was an upstairs to this residence; is that  
17 correct?

18 A No, sir.

19 Q And you didn't go upstairs to photograph anything up  
20 there, did you?

21 A No, sir, I didn't.

22 Q Now on your sketch -- may I pass to you what's  
23 previously been marked Exhibit 16. Now on your sketch you  
24 indicate two nightstands on the -- on each respective side of  
25 the bed; isn't that correct?

1 A Yes, sir.

2 Q Now you didn't open those nightstands to photograph the  
3 inside of them, did you?

4 A No, sir, I didn't.

5 Q Now I want to ask you this question. Were you told by  
6 either of the officers to look for any certain things?

7 A No, sir.

8 Q Okay.

9 MR. J. BAILEY: Would Your Honor indulge me one  
10 moment? No further questions.

11 THE COURT: Any redirect?

12 MS. WEIRICH: No, sir.

13 THE COURT: You may step down. All right. Ladies  
14 and gentlemen, we'll take about a ten-minute recess at this  
15 time. As always, do not discuss the case during the recess.

16 (Jury out.)

17 THE COURT: Take him out, please. Stand in  
18 recess.

19 (Recess.)

20 (Jury present.)

21 THE COURT: Call your next witness.

22 MS. CARNESALE: State calls Sergeant Kjellin.

23

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SERGEANT KJELLIN

called as a witness, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MS. CARNESALE:

Q Good afternoon.

A Good afternoon.

Q Would you please state and spell your name for the record?

A Andrew Kjellin. Spelling of last name K-J-E-L-L-I-N.

Q Where are you employed, Sergeant Kjellin?

A Memphis Police Department, Felony Response Unit.

Q And you're currently the rank of Sergeant?

A Yes.

Q How long have you been a Memphis police officer?

A 16 years.

Q How long have you been the rank of Sergeant?

A A little over two.

Q And you're currently assigned to Felony Response?

A Yes.

Q Can you tell the jury what that is?

A We do all preliminary investigations for all rapes, robberies, homicides, major felonies between the hours of midnight and 8 a.m.

Q And then at 8 a.m. what happens to those cases that

1       you've investigated overnight?

2       A       The specialty bureaus take over.

3       Q       Such as robbery --

4       A       -- homicide.

5       Q       Were you a Sergeant with the felony response team in  
6 November of 2004?

7       A       Yes, I was.

8       Q       On November 5th, 2004, were you called to the location  
9 of 8152 Creekside Circle?

10      A       Yes.

11      Q       And that is in Memphis, Shelby County, Tennessee?

12      A       Yes, it's in Cordova.

13      Q       And approximately what time did you go to that house?

14      A       I arrived somewhere around 5:30 in the morning.

15      Q       Who called you to that location?

16      A       I was assigned by my lieutenant who received a call  
17 from the field lieutenant who was on the scene of an unknown  
18 death.

19      Q       And who was your lieutenant at that time?

20      A       Lieutenant Hanscom.

21      Q       When you got there did you go by yourself or were you  
22 with a partner?

23      A       I had a partner follow but I was there. I drove by  
24 myself.

25      Q       And are you dressed as you are now in street clothes?

1 A Yes.

2 Q Not in uniform?

3 A Not in uniform.

4 Q When you arrived what did you find?

5 A When we got there I met the field lieutenant. There  
6 was several people in the house already. We went back. They  
7 escorted me to the back where the crime scene was and noticed  
8 the body laying on the ground.

9 Q Was that the bedroom -- I'm sorry.

10 A That was the bedroom.

11 Q I interrupted you. What were you --

12 A That's okay.

13 Q It was a female body?

14 A Yes.

15 Q Had you been given any information about what happened?

16 A Just that it was an unknown death.

17 Q I'm going to pass forward to you what was previously  
18 marked Exhibit No. 15. Is that the body that you saw lying on  
19 the floor that day?

20 A Yes.

21 Q Early that morning?

22 A Uh-huh.

23 Q What did you do when you got into the room and saw that  
24 body?

25 A Well, I asked the field lieutenant and the officers

1       there what preliminary information they did have; victim's  
2       name, who was in the house, what information they had as to  
3       the particulars of why she was laying on the floor and that.

4       Q       What were you told?

5               MR. W. BAILEY:  Objection, hearsay.

6               MS. CARNESALE:  Your Honor, I'm not asking to  
7       introduce this for the truth of the matter asserted, it goes  
8       to explain what he did next and what actions --

9               THE COURT:  I'll sustain the objection.

10       Q       Based on the information you were given, what did you  
11       do?

12       A       Based on that information, we looked around the room  
13       for any signs of entry and there didn't appear to be any.  The  
14       room was heavily cluttered with personal items and clothing,  
15       et cetera.  The bathroom, we looked in the bathroom because we  
16       were told she had been in the tub.  The field lieutenant had  
17       mentioned that the water was still warm and the paramedics  
18       said that the temperature was in the 90s.

19               MR. J. BAILEY:  Again, objection.

20               THE COURT:  Overruled.  Go ahead.

21       Q       I'm sorry.  The paramedics said what?

22       A       The temperature in the water was in the 90s.

23       Q       Did you observe the bathtub?

24       A       I looked at the bathtub.  I didn't feel the water, no.

25       Q       Was there water still in the tub?



1 A Yes.

2 Q And then what did you do?

3 A From there I left and went and talked to Mr. Braswell.

4 Q Do you see Mr. Braswell in the courtroom today?

5 A Yes, he's here.

6 Q Can you point to him and tell me what he's wearing?

7 A He's sitting behind the attorney table there. He's in  
8 a dark suit with a black and white tie, I believe, or could be  
9 possibly gray from this point of view.

10 MS. CARNESALE: Your Honor, may the record reflect  
11 he has identified the defendant Vern Braswell.

12 Q Did you speak with Vern Braswell?

13 A Yes, I did.

14 Q Where were you when you spoke with him in the house?

15 A I originally took him to the den area. And I asked --  
16 there were six people in the house and we asked them to leave,  
17 step outside so I could talk with him and find out since he  
18 was the only adult in the house at the time what happened.

19 Q Were the six people you asked to leave, were they not  
20 law enforcement or firefighters?

21 A No, they weren't related -- as far as they weren't law  
22 enforcement or emergency personnel, no.

23 Q Okay. And they left and you spoke with Mr. Braswell?

24 A Yes.

25 Q What was he wearing at that time?

1 A He was wearing a bathrobe.

2 Q How was he acting?

3 A Kind of calm.

4 Q And what did he tell you had happened?

5 A He had told me that around midnight he and his wife  
6 were having sex in the jacuzzi tub and that she had gotten dry  
7 so they decided to move to the bed and they moved into the bed  
8 and around 1:30 they had talked about letting the bath water  
9 -- who was going to let the bath water out. He then said he  
10 -- she was complaining of cramping. So he rolled over and  
11 went to sleep. He then told me that he woke up around 3:40 to  
12 3:50, somewhere in that time frame. She wasn't in the bed.  
13 He went in the bathroom and found her and then he called a  
14 friend and then called 911, and then he stated that he  
15 couldn't get her out of the tub.

16 From then I questioned him again concerning when he  
17 called his friend because I was unsure whether he called his  
18 friend before or after calling 911. He stated he called them  
19 before calling 911.

20 Q Did he tell you that friend's name?

21 A Brian. I don't recall the last name. I'd have to look  
22 in my supplement for that.

23 Q And he stated he called Brian before he called 911?

24 A Yes.

25 Q Did he say why?

1 A No, I don't recall.

2 Q And then he called 911. Then what did he do?

3 A He called and said he couldn't get her out of the tub.

4 Q Did you see anything about the bathroom or the bathtub  
5 that would explain why he could not get her out of a bathtub?

6 A No, it's a rather shallow tub. It's a small jacuzzi  
7 tub.

8 Q Is it -- well, I'm going to pass forward a photograph  
9 previously marked Exhibit No. 2. Was that the bathtub that  
10 was in the house that morning?

11 A Yes, it was.

12 Q And is that a normal size bathtub as opposed to an  
13 oversized jacuzzi tub that you see in some houses?

14 A Yeah, it would be considered smaller. It would be more  
15 like a standard tub with the jet added to it.

16 Q Okay. Based on what Mr. Braswell told you, what did  
17 you do?

18 A From there I went back into the room and talked with my  
19 partner, and we consulted our supervisor. And by that time  
20 it's getting later in the morning so we asked him to go ahead  
21 and get dressed and come to our office for a statement once  
22 body removal had taken care of all their -- and crime scene  
23 finished. Since the children were taken care of already, we  
24 went ahead and asked Mr. Braswell -- he had a friend that  
25 followed me in their vehicle to 201 Poplar, and from there it

1 was getting close to eight o'clock so I allowed homicide to  
2 take over the investigation.

3 Q So you got to the house around 5:30; is that right?

4 A That's correct.

5 Q How long did you investigate the scene, by that I mean  
6 look around the house and talk to people on the scene?

7 A I'm not sure the exact time but I got -- we returned  
8 back here around eight. It was getting close to eight  
9 o'clock.

10 Q So you were there a total of --

11 A An hour and a half, two hours.

12 Q How long did you speak with the defendant?

13 A Five minutes at the most.

14 Q Why did you ask him to come down to this building to  
15 give a statement?

16 A Typically though when we have a felony or an unknown  
17 event, we try and get the witness or victim to come down and  
18 provide a type-written statement right then because their  
19 thoughts are clear and untainted from friends' points of view,  
20 media, should they be there, or any other outside stimuli. We  
21 get it as quickly as possible.

22 Q And normally you would take that statement; is that  
23 correct?

24 A Yes, normally I would if it was -- depending on the  
25 situation, myself or another investigator in the office.

1 Q Why did you turn this case over to homicide to take the  
2 statement?

3 A Well, due to the budget shortfall, there -- in an  
4 unknown case like this, homicide will eventually get the case  
5 from us anyway. And since they were coming in, they have more  
6 time, better equipped than we are to interview. They've got  
7 interview rooms where we don't.

8 Q Okay. Mr. Braswell was not arrested; is that correct?

9 A No, he was not under arrest.

10 Q He was free to come and go but you asked him to come  
11 down?

12 A Yes.

13 Q And he came down by way of a friend bringing him?

14 A Yes, they followed me in their vehicle.

15 Q Did you consider him to be a suspect at that point?

16 A I had some reservations but until further  
17 investigation, I wouldn't be able to say for sure.

18 Q What were your reservations about what you knew about  
19 this case?

20 A Well, her being --

21 MR. W. BAILEY: Your Honor, objection.

22 THE COURT: Sustained.

23 Q Did you look at Ms. Braswell's body?

24 A Yes, I did.

25 Q Did you notice anything unusual about it?

1       A     Yes. There was some discoloration around the neck,  
2     looked like bruising but I'm not a physician so I can't say  
3     for sure. But she also had -- and I had never seen it before,  
4     one of the other investigators that had seen petechiae and I  
5     had never seen it so they showed me what the eye looks like  
6     when someone experiences choking, the blood vessels bursting  
7     in the eyes.

8       Q     The blood vessels bursting in the eyes?

9       A     Right. I had never had a case similar to that before  
10    and they showed me what it looked like so in the future if I  
11    came across that, it would be an indicator.

12    Q     Where -- you saw that on Ms. Braswell?

13    A     Yes.

14    Q     Where on her eyes did you see it?

15    A     They opened the eye just a little bit so we could see  
16    it.

17    Q     And if you would for the jury explain where on the eye?  
18    The upper? The lower?

19    A     They just opened the lids of the eye. They took the  
20    finger and just barely moved them up and you could see the  
21    discoloration on the pupil and in the area of the eye.

22    Q     While you were speaking with the defendant, did you  
23    ever see him making any phone calls?

24    A     He had been on the phone off and on from my  
25    understanding. I don't recall specifically.

1 MR. W. BAILEY: Objection.

2 MS. CARNESALE: Well, let me rephrase.

3 THE COURT: Rephrase.

4 Q From what you personally observed, did Mr. Braswell  
5 make or receive any telephone calls?

6 A I believe he received one after I was through with him.

7 Q Was this on a house phone or cell phone?

8 A I don't recall whether. It was portable, whatever type  
9 he was using.

10 MS. CARNESALE: Thank you. No further questions,  
11 Your Honor.

12 THE COURT: Mr. Bailey.

13

14 CROSS-EXAMINATION

15 BY MR. J. BAILEY:

16 Q Sergeant Kjellin, how are you?

17 A I'm fine.

18 Q I just have a couple questions for you. Now, you see  
19 Mr. Braswell. You've identified him; is that correct?

20 A That's correct.

21 Q And he has a lighter complexion than myself; is that  
22 correct?

23 A I'd have to -- yes, he's lighter.

24 Q As light as this juror sitting here?

25 MS. WEIRICH: Objection, Your Honor.

1 THE COURT: Sustained. That's not appropriate,  
2 Mr. Bailey.

3 Q He's lighter than I am; is that correct?

4 A Yes.

5 Q And you viewed him there at the house and downtown; is  
6 that correct? You had a chance to see him; is that correct?

7 A Uh-huh.

8 Q And did you see any scratches on him anywhere?

9 A I didn't notice any.

10 Q No blood trickling from any abrasions or anything of  
11 that nature?

12 A I didn't recall any, no.

13 Q Did you notice that Mr. Braswell had nipple piercings  
14 himself?

15 A I didn't notice that.

16 Q Did you notice -- you certainly noticed the body  
17 piercings on the decedent; is that correct?

18 A Yes, there's some piercings.

19 Q Nipples, belly button or navel; is that correct?

20 A It looks that way in the photo.

21 Q Okay. And had you seen wounds or markings on Mr.  
22 Braswell, that would have at least heightened your suspicion;  
23 is that correct?

24 A I didn't see any. I didn't notice any.

25 MR. J. BAILEY: Your Honor, indulge me a moment.



1 Q You knew that Mr. Braswell was the spouse of the  
2 decedent Ms. Sheila Braswell; is that correct?

3 A Yes.

4 Q And as a trained investigator, certainly as you're  
5 talking to this person who's on the scene of what at least was  
6 a death, an unexplained death but was possibly a homicide,  
7 you're viewing that person and you're at least observing to  
8 see if you do see anything that may be pertinent. That would  
9 be fair to say, wouldn't it?

10 A What are you trying to ask?

11 Q No, just answer my question.

12 A Well, I --

13 Q I'll rephrase it for you.

14 A I'm not sure what you were wanting me to answer.

15 Q As you were talking with Mr. Braswell, you certainly  
16 were looking at Mr. Braswell to see if there were any markings  
17 or bruising on him, weren't you?

18 A I didn't disrobe him, no.

19 Q When you arrived at the house, how was he dressed?

20 A He was wearing a robe.

21 Q Okay. And so you were able to see his hands, weren't  
22 you?

23 A Yeah, he had his hands just like this.

24 Q And you were able to see his face, weren't you?

25 A Uh-huh.

1 Q And there were no scratches or marks on the hands or  
2 face, were there?

3 A Not that I noticed.

4 Q And did you notice the fingernails of the decedent?

5 A I didn't look at the fingernails of the deceased.

6 Q You did not?

7 A No, I did not touch her hands.

8 Q Would that be something that you would normally look at  
9 to see whether or not you've got broken nails or blood under  
10 the nails or anything of that nature?

11 A Not necessarily.

12 Q Okay. Truth is you weren't -- there was --

13 MS. WEIRICH: Your Honor, may we approach?

14 THE COURT: You may.

15 (Bench conference commenced.)

16 MS. WEIRICH: I object to Mr. Bailey's  
17 characterization of the truth of the matter is or what the  
18 truth is. I think that's for the jury to determine and not  
19 Mr. Bailey to testify to.

20 MR. J. BAILEY: I can rephrase it, Judge.

21 THE COURT: Do rephrase it. You've used that  
22 several times now.

23 MR. J. BAILEY: I will.

24 (Said bench conference concluded.)

25 Q Sergeant Kjellin, you've testified in this matter

1 before; is that correct, preliminary hearing?

2 A Yes, downstairs.

3 Q Okay. And during that preliminary hearing, am I  
4 correct that you testified that there were no visible signs of  
5 any kind of struggle?

6 A I -- in what way?

7 Q Was that your testimony?

8 A Well, yeah, I was asked the question did I see any  
9 visible signs in the surrounding area concerning any kind of  
10 struggle. And with all the clutter and the way the area was,  
11 it didn't appear to have been a struggle like, I mean, things  
12 weren't broken or out of place. There was so much clutter I  
13 couldn't tell the difference if there was a struggle.

14 Q In fact the whole house was kind of cluttered, wasn't  
15 it?

16 A It was cluttered. But in the room that I was in there  
17 was a lot of clutter.

18 Q And what room was that?

19 A The bedroom and the bathroom.

20 Q Okay.

21 MR. J. BAILEY: Your Honor, excuse me. No further  
22 questions, Your Honor.

23 THE COURT: Redirect?  
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REDIRECT EXAMINATION

BY MS. CARNESALE:

Q Sergeant Kjellin, can you describe the robe that the defendant was wearing? The length?

A I don't know the exact length. I know that it covered the majority of his body, if I remember correctly.

Q Was it tied closely?

A It was kind of loose in the front and he'd wear it like this. And he was sitting on the couch so it was, you know, drawn to.

Q And did you ever physically examine his body?

A No, I didn't go up to him and open his robe or -- I just visual during our conversation.

MS. CARNESALE: Thank you. No further questions.

THE COURT: You may step down. Call your next witness.

MS. WEIRICH: Sergeant Merritt.

SERGEANT MERRITT

called as a witness, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MS. WEIRICH:

Q Good afternoon.

A Hello.

1 Q Would you please tell the jury your name?

2 A William D. Merritt.

3 Q Would you spell your last name, please, for the court  
4 reporter?

5 A M-E-R-R-I-T-T.

6 Q Where do you work?

7 A I'm currently employed with the Memphis Police  
8 Department in the Homicide Squad.

9 Q How long have you been with Homicide?

10 A Right at five years.

11 Q What are your responsibilities in the Homicide Bureau?

12 A We're responsible for investigating homicides, any  
13 accidental-type death, any suicide and then any deaths that  
14 are seemingly unexplained at the time the person passes away.  
15 It's what we do in that office.

16 Q All right. How long have you been with MPD?

17 A It will be 21 years in February.

18 Q Were you assigned the case of the death of Sheila  
19 Braswell?

20 A Yes, I was.

21 Q When were you assigned it, if you know?

22 A November 5th, 2004.

23 Q Did you make the scene of the home where her body was  
24 found?

25 A No, I did not.

1 Q How did you come to get this case?

2 A I arrived at work that morning on November 5th and the  
3 case was assigned to me at that point. It was about 8:15 that  
4 morning.

5 Q All right. Who assigned you the case?

6 A My supervisor Lieutenant Joe Scott.

7 Q What did you do at that point?

8 A At that particular point when I first arrived at work,  
9 I learned that we had a case where a female had been found  
10 dead in her bathroom by her husband. I spoke with Sergeant  
11 Kjellin and I believe Sergeant Key, who were the midnight  
12 shift investigators who went to the Braswell residence. I  
13 read over their reports. They briefed me on what they had  
14 found at the scene. Short time later Mr. Braswell arrived at  
15 the homicide office and we began to interview him.

16 Q All right.

17 A About what occurred or what he knew about the incident.

18 Q Okay. When you say he arrived in your office -- first  
19 of all where is your office?

20 A It's in this building on the 11th floor.

21 Q And describe to the jury what it looks like.

22 A It's just a regular-size office. You -- if you didn't  
23 know it was a police department, you would think it was a bank  
24 or, you know, accounting firm or anything. Just computers and  
25 desks and telephones, just, you know.

1 Q How many people are there at any given time?

2 A It varies. On that particular day there may have been  
3 12 to 15 people that would be investigators, support people,  
4 transcriptionists, whatnot.

5 Q Do each of the investigators have their own cubical?

6 A Yes.

7 Q Does the lieutenant have his own office?

8 A Yes, he does.

9 Q And is there an interview room?

10 A We have two interview rooms in the homicide office; one  
11 larger room that can accommodate several people and then a  
12 smaller room where, you know, you might be comfortable with  
13 three or four people in that particular room.

14 Q If you are going to interview someone, do you always  
15 take them to the interview room or do you sometimes interview  
16 them at your desk?

17 A Normally, you take them to an interview room because  
18 you want some privacy. You're not sure what the person is  
19 going to tell you, and, you know, a lot of people don't want  
20 to be out in the open when they're talking to the police about  
21 a sensitive matter like a death or, you know, investigation.

22 Q You said the defendant arrived at the homicide office.  
23 About what time was it, do you remember?

24 A If I recall correctly it was around 8:30, 8:45. It was  
25 in that time frame, a.m.

1 Q How did he get there?

2 A He arrived with a friend of his, I believe, with a  
3 brother-in-law.

4 Q He wasn't handcuffed?

5 A No, he was not.

6 Q Had he come on his own free will?

7 A Yes.

8 Q Do you see him in the courtroom this afternoon, the  
9 defendant?

10 A Yes, I do.

11 Q Would you point to him for me, please, Sergeant, and  
12 tell me what he's wearing?

13 A Mr. Braswell is sitting behind Mr. Bailey, has on a  
14 dark suit, light colored shirt and a black or gray striped  
15 tie.

16 Q Did you -- were you standing at the door greeting him  
17 or how did you two come in contact with one another?

18 A I believe I had been over at the felony response office  
19 where Sergeant Kjellin worked, was getting information on the  
20 case. And when I arrived back at the homicide office I  
21 learned -- through the grapevine, I learned Mr. Braswell was  
22 there waiting for us.

23 Q Where was he waiting?

24 A I believe he had been seated in one of our interview  
25 rooms, either that or we have a small lobby right there inside



1 the office. He may have been there.

2 Q Did you -- if he was in the lobby and not the interview  
3 room, would you have taken him or did you take him to an  
4 interview room?

5 A Yes, I did.

6 Q Who went with you?

7 A Myself and Sergeant Miller.

8 Q And the defendant?

9 A Correct.

10 Q So there's three of you?

11 A That is correct.

12 Q What is your focus at that point? What are you trying  
13 to obtain from sitting down and interviewing him?

14 A At that particular point we were just interested very  
15 first just getting some information about -- from Mr.  
16 Braswell, his educational background, where he works, things  
17 of that nature. At that particular point based on the --  
18 where the investigation was going at that time, we weren't  
19 sure how Ms. Braswell died. We knew it was a little bit  
20 unusual because she was young, appeared healthy. We didn't  
21 know of any -- no medical problems. And from speaking with  
22 Sergeant Kjellin, there did not appear to be any noticeable  
23 injuries to her, no stab wound, no gunshot wound, anything  
24 that you would typically see in, you know, someone who's been  
25 murdered.

1 Q Was there any indication from any of the people you had  
2 talked to that there had been forced entry or there was some  
3 other third party that had been in the home?

4 A At that time no. We spoke with Sergeant Kjellin or I  
5 did myself and he told me that he checked the windows, doors  
6 the perimeter of the residence and did not find any sign of  
7 forced entry into the house.

8 Q When you sit down and talked with the defendant that  
9 morning, is he free to leave at any time?

10 A At that particular time yes, he was because he was not  
11 in custody at that time. We were there basically just to get  
12 information from him about what happened that night with, you  
13 know, with his wife.

14 Q Okay. And do you just sit down at a table and ask  
15 questions and they answer, kind of like you and I are doing  
16 right now or is it a little more formal?

17 A It was formal in the sense that since we did not know  
18 what caused Ms. Braswell's death, we wanted to be safe in the  
19 event it was some foul play or whatnot involved. So before we  
20 began the interview and started obtaining information from Mr.  
21 Braswell, we advised him of his rights.

22 Q All right. What does that mean when you advise them of  
23 their rights?

24 A What we do we have a form and it has the Miranda  
25 warnings on it and we sat down. We went over it with Mr.

1 Braswell. We had him read a little bit of the form just to  
2 verify that he could read. We went over the form with him. I  
3 read it out loud to him and he signed the form and he agreed  
4 to talk to us about his wife's passing and, you know, the  
5 events that led up to that.

6 Q All right. And again, in the room right now it's the  
7 defendant, you, and Mark Miller?

8 A That is correct.

9 Q I'm going to pass you two documents. The one with the  
10 red ink, do you recognize that?

11 A Yes, this is the original copy that we filled out the  
12 day we initially interviewed Mr. Braswell.

13 Q All right. And are those the Miranda Rights that  
14 you've just spoken of?

15 A Yes, they are.

16 Q The other document, what does it appear to be?

17 A This is a photocopy of the original document that's in  
18 red.

19 MS. WEIRICH: Your Honor, at this time I'd ask  
20 that the red marked document be moved into evidence as Exhibit  
21 26.

22 THE COURT: Okay.

23 (Exhibit No. 26 was marked and filed.)

24 Q Does the copy appear to be an exact copy of the  
25 original?

1           A       Yes, it does.

2                   MS. WEIRICH: Judge, I do have copies of that copy  
3 to pass out to the jury.

4                   THE COURT: All right.

5           Q       If you could, Sergeant Merritt, holding the red marked  
6 document, if you could read that to the jury?

7           A       Okay. In the upper right-hand corner this was written  
8 with my handwriting. It states master's degree University of  
9 Memphis. That was just to indicate that we checked with Mr.  
10 Braswell on his level of education. It states: Interrogation  
11 Advice of Rights, Your Rights. Place: 201 Poplar Room 11-20.  
12 Date: 11/5/04. Time: 8:50 a.m.

13                   Before we ask you any questions, you must understand  
14 your rights. You have the right to remain silent. Anything  
15 you say can be used against you in court. You have the right  
16 to talk to a lawyer for advice before we ask you any questions  
17 and to have him with you during questioning. If you cannot  
18 afford a lawyer, one will be appointed for you before any  
19 questioning if you wish.

20                   Waiver of Rights. I have read the statements of my  
21 rights and I understand what my rights are. I'm willing to  
22 talk to you and answer questions. I do not want a lawyer at  
23 this time. I understand and know what I am doing. No  
24 promises or threats have been made to me and no pressure or  
25 coercion of any kind has been used against me.

1 Q At this point when this document was executed, had the  
2 homicide office been notified by the medical examiner's office  
3 what the cause of death was?

4 A No.

5 Q All right. After this document is filled out -- let me  
6 ask you this. At this point could the defendant have left?

7 A Absolutely.

8 Q Walked out of the room?

9 A That is correct.

10 Q Could he have told you he didn't want to talk to you?

11 A That is correct.

12 Q Could have told you he wanted a lawyer?

13 A That is correct.

14 Q He didn't indicate any of those things?

15 A No, he did not.

16 MR. W. BAILEY: Your Honor, we'll stipulate that  
17 he was fully cooperative at that point and complied and was  
18 doing so willingly and freely at that point.

19 THE COURT: Thank you. You may proceed.

20 MS. WEIRICH: Thank you, Your Honor.

21 Q Now after this document is executed, what is -- and the  
22 defendant indicates that he's willing to stay and willing to  
23 talk with you, again, it's just the three of you men in the  
24 room; right?

25 A That is correct.

1 Q What's the next thing that happens?

2 A What we did at that point, we started speaking with Mr.  
3 Braswell about his activities and the activities of Ms.  
4 Braswell the evening that she passed away.

5 Q All right. And are you taking notes as he's talking or  
6 are you just listening?

7 A Yes, we're scribbling notes and taking notes and, you  
8 know, just writing down what he is telling us.

9 Q All right. What did he tell you?

10 A Mr. Braswell told us that he and his wife were at home  
11 and that they were intimate, they'd had sex. They had been in  
12 the bathtub and they left the bathtub and then went to the bed  
13 where they proceeded with another sexual encounter. After the  
14 sex was completed, Mr. Braswell told me that his wife went to  
15 the bathroom to get in the jacuzzi because she was complaining  
16 of stomach cramps. He told me that he began to watch TV for a  
17 short while, fell asleep and then woke up around I think 4:30,  
18 four o'clock, 4:30 a.m., saw that she was not in the bed with  
19 him, went to the bathroom and found her in the bathtub where  
20 he found her dead.

21 Q All right. Did he ever tell you, Hey, Sergeant, let me  
22 be honest with you, we were into a little kinky sex?

23 A No, he did not.

24 Q Did he ever tell you --

25 MR. W. BAILEY: Your Honor, I object. That's

1 leading.

2 MS. WEIRICH: It doesn't call for an answer.

3 THE COURT: Overruled.

4 Q Did he ever tell you, Hey, this is just between us, you  
5 and me and Mark Miller sitting here, just us three guys, my  
6 wife and I got into kinky sex?

7 A No, he did not.

8 Q Did he ever tell you that his wife liked to have him  
9 choke her?

10 A No, he did not.

11 Q Did he ever tell you that he had a girlfriend that he  
12 liked to choke?

13 A No, he did not.

14 Q Was he calm, cool and collected that morning?

15 A That particular morning he was crying. He was upset  
16 about, you know, what occurred and what we were doing at that  
17 particular time. He was -- he was upset. You know, he was  
18 emotional.

19 Q Did he have any phones with him?

20 A He had two cellular telephones.

21 Q Was he using them?

22 A Yes, he was allowed to make calls and made and received  
23 a couple of calls, several calls for that matter, while we  
24 were conducting the interview.

25 Q During the course of this -- this talk at the table?

1 A That is correct.

2 Q He would get calls and he would make calls?

3 A That is correct.

4 Q Did both phones appear to be working?

5 A I believe so. We let him stop and answer the phone and  
6 make his calls when he wanted to.

7 Q Did he ever tell anybody on that phone, Hey, they got  
8 me up here and they're about to charge me with murder and  
9 you've got to get me out of here?

10 MR. W. BAILEY: Excuse me. Excuse me. May we  
11 approach?

12 THE COURT: You may.

13 (Bench conference commenced.)

14 MR. W. BAILEY: Your Honor, she's asking questions  
15 that are framed in a manner to elicit a yes or no response.  
16 We object to leading.

17 THE COURT: It's not leading if you don't suggest  
18 which answer to give. A leading question would be: He never  
19 told you X, Y, and Z, comma, did he? That would be leading.  
20 She says did he ever say this. He could say yes. He could  
21 say no. He could say I don't remember. He could say, well,  
22 he told me partially that. But that doesn't suggest the  
23 answer. It directs his attention to a subject matter. But  
24 it's not leading in my opinion. Leading would be to say the  
25 light was red, comma, wasn't it? Not was the light red. If



1     you say was the light red, he could say yes, no, it was green,  
2     it was yellow. You know, but the light was red, comma, wasn't  
3     it? That's leading. So I disagree with you. I'll overrule  
4     your objection.

5                     MR. W. BAILEY: Very well.

6                     (Said bench conference concluded.)

7         Q     Sergeant Merritt, in any of these phone calls he was  
8     making or receiving, did you ever hear him say, Buddy, you've  
9     got to get me out of here, they're about to charge me with the  
10    murder of my wife and we were just having sex, it was just a  
11    night of love that went wrong?

12        A     No.

13        Q     Could he have left at any time?

14        A     Yes.

15        Q     That initial talking with him when you're asking him  
16    questions and jotting down notes, is that the final encounter  
17    you had with him or is there then a stage where you formalize  
18    that information?

19        A     After we obtain Mr. Braswell's information about the  
20    activities with his wife that evening, we -- what we do we sit  
21    down with a transcriptionist and we asked the same questions  
22    in a question-and-answer format that we had typed out, printed  
23    up and he was able to read the document and sign the document  
24    that morning in our office.

25        Q     All right. So for the formalization of that

1 conversation, another person is brought into the room, a  
2 transcriptionist?

3 A That is correct.

4 Q Is that a female or a male?

5 A It was a female.

6 Q How long were you with the defendant and Mark Miller  
7 just the three of you in the room?

8 A We began speaking with Mr. Braswell at 8:50 a.m. that  
9 morning. I believe around 9:30 or so we sat down and started  
10 the transcribed part of the statement so maybe 40 minutes, 45  
11 minutes or so.

12 Q He's alone with just the two of you?

13 A That is correct.

14 Q The door is shut?

15 A Yes.

16 Q Nobody is watching?

17 A No.

18 Q Nobody's listening?

19 A No.

20 Q When the statement was formalized and then you asked  
21 him the same questions again that you'd already asked him,  
22 were his answers identical to what he had just told you?

23 A Yes, they were.

24 Q I pass you two sets of documents, Sergeant Merritt. Do  
25 you recognize the one with the red ink?

1       A     Yes. This is the statement that myself and Sergeant  
2 Miller obtained from Mr. Braswell on November 5th, 2004.

3       Q     All right. Is that the formalization that we've spoken  
4 of, of the conversation that you and Mark Miller had with the  
5 defendant?

6       A     That is correct.

7       Q     All right. And if you've already explained this to the  
8 jury, I'm sorry but I missed it. Explain to them how that  
9 document is made, how it's produced.

10      A     Okay. What we did this particular morning we sat down  
11 with our transcriptionist. It would have been myself,  
12 Sergeant Miller, Mr. Braswell and our transcriptionist and a  
13 blank form that would have read Homicide Witness Statement was  
14 pulled up on the computer screen where the transcriptionist  
15 was seated. She filled in or typed in all of Mr. Braswell's  
16 personal information; his name, his birth date, social  
17 security number, home address, where he worked, typed in his  
18 emergency contact person, which here shows to be his mother,  
19 and then just the date and time that we took the statement.  
20 And when she finished that would be the heading of the  
21 statement. It's all on computer at that time. It's on the  
22 computer screen. She's typing this information in. And then  
23 we would go into the question-and-answer format where we would  
24 ask Mr. Braswell a question, transcriptionist would type  
25 exactly what the question, you know, was that was asked. And

1 then Mr. Braswell would answer and then she would type his  
2 answer. And we asked a series of questions. She would type  
3 the question, he would answer. She would type until we  
4 finished with what we wanted to ask. And then at that point  
5 it was printed, the question-and-answer format was printed  
6 from the computer to this paper. And we sat down with Mr.  
7 Braswell. He read over the document and actually made some  
8 changes that he found on here and then he signed it.

9 Q Okay. He's given an opportunity to review it and make  
10 changes if he wants to?

11 A That is correct.

12 Q Were any of those changes, Hey, we were into this thing  
13 where I choked her until the point where she almost became  
14 unconscious and then we would have sex?

15 A No.

16 Q Were any of the changes, Hey, she liked me to choke her  
17 while we had sex?

18 A No.

19 Q Were any of the changes, She liked rough sex?

20 A No.

21 Q Were any of the changes, We have a closet full of whips  
22 and other sex toys. I've got to tell you about it. I've got  
23 to show you where it is?

24 A No.

25 Q Is the copy that you have up there, Sergeant Merritt,

1 is that an exact copy of the original?

2 A Yes, it is.

3 Q But for the red ink?

4 A That is correct.

5 MS. WEIRICH: And, Judge, I do have 14 copies for  
6 the jury.

7 THE COURT: All right.

8 Q Sergeant Merritt, if you could starting with This is  
9 the statement of, if you could read this statement to the  
10 jury.

11 A This is the statement of Vern Braswell. Date of birth:  
12 11/30/70. Social security number: 412-17-6390. Home  
13 address: 8152 Creekside Circle North. Home phone number:  
14 901-624-5176. Education: Master's degree University of  
15 Memphis. Employed by: Memphis City Schools Hanley  
16 Elementary. Work address: 680 Hanley. Work phone:  
17 901-416-0561. Occupation: Assistant principal. Next of kin  
18 emergency contact: Mary Wallace. Home address: 3018  
19 Calvert. Home phone: 901-458-0958. Occupation: Retired.  
20 Employment: NA. Business phone: NA. Business address: NA.  
21 This statement is made on Friday, November 5th, 2004, at 0922  
22 hours in the Homicide Office west interview room, 201 Poplar,  
23 Room 11-17 to Sergeant W.D. Merritt, IBM 5546 and Sergeant M.  
24 Miller, IBM 5574, relative to the death investigation of  
25 Sheila Braswell, which occurred at 8152 Creekside Circle North

1 on Friday, November 5th, 2004, at approximately 2 a.m. and  
2 which is filed under MPD report number 0411002362 M.E.  
3 Questioned by Sergeant W.D. Merritt, IBM 5546 and Sergeant  
4 Mark Miller, IBM 5574. Typed by: Melody Montgomery, IBM  
5 10318.

6 Question: Mr. Braswell, are you the husband of Sheila  
7 Braswell? Answer: Yes. Question: Were you and Sheila  
8 together at 8160 Creekside Circle North on November 5th, 2004?  
9 Answer: Yes. Question: Was anyone else at the residence  
10 during that time? Answer: The children. Were you and Sheila  
11 -- were you and Sheila together at approximately 12 a.m. on --  
12 12 a.m. on November 5th, 2004? Answer: Yes. In your own  
13 words tell me what happened while you and Sheila were together  
14 around midnight November 5th, 2004. Answer: We were in the  
15 jacuzzi together around midnight relaxing and bathing. We  
16 began getting intimate and engaged in sex. As a result of  
17 inadequate amount of lubrication, we continued sex in the  
18 bedroom and in the bed. At approximately 1:30 a.m. we stopped  
19 and joked about who was going to let the water out of the  
20 jacuzzi. She commented about an aching cramping pain in her  
21 abdomen. Then she got up and walked with a limping motion to  
22 the bathroom and shortly thereafter, I heard in the bathroom  
23 the jacuzzi faucet as well as the jacuzzi jets turn on at  
24 which time or shortly thereafter I fell asleep. It was  
25 approximately 1:30 to 1:40 a.m. At approximately 3:50ish to 4

1 a.m. I noticed that she wasn't in the bed. I went to check on  
2 her and she had fallen somewhat submerged in the water. I  
3 called 911 and Brian James as well as a host of other family  
4 and friends trying to get help. Question: Were the jets  
5 running when you found Sheila in the tub? Answer: Yes.  
6 Question: What position was Sheila resting when you found  
7 her? Answer: She was midway between being on her side and on  
8 her back. Question: Was her head and face out of the water?  
9 Answer: No. Question: Did you move or reposition the body  
10 before the paramedics came? Answer: I stepped in the bathtub  
11 and attempted to grab her around the waist and pull her out of  
12 the tub. My efforts left her on the side of the tub. Shortly  
13 thereafter, the paramedics came in. Also, I noticed that the  
14 pink bath pillow was floating in the tub. It was detached  
15 from the wall and was floating in the tub. Question: Did  
16 Sheila consume any alcoholic beverages during the night?  
17 Answer: Before midnight she consumed one 12-ounce Skyy Blue.  
18 While in the jacuzzi she had another one. Question: Was  
19 Sheila on any medication? Answer: No. However, she would  
20 occasionally take Skelaxin, Hydrocodone or Tylenol with  
21 Codeine for cramping in the joints and aching pains.  
22 Question: What medical problems did Sheila suffer from?  
23 Answer: She suffered from endometriosis as well as two  
24 complicated pregnancies which left her with hip and leg  
25 cramps. Question: Has Sheila been in the hospital within the

1 last year, and if so, for what? Answer: It was, like,  
2 mid-December 2003 she had, like, a pseudoparalysis which -- or  
3 where she couldn't move or do anything. We spent three days  
4 at Baptist East. The doctors said it was a Potassium  
5 deficiency. She couldn't walk or do anything from the neck  
6 down. As a result, she is supposed to be taking some  
7 Potassium pills but I haven't seen them. She has complained  
8 maybe once over the summer for not being able to move or  
9 anything. Question: Did you ejaculate while you and Sheila  
10 were having sex? Answer: No. Question: Prior to today,  
11 when was the last time that you and Sheila had been intimate  
12 together? Answer: On the night of November 3rd. Question:  
13 Were you watching TV when Sheila returned to the bathroom?  
14 Answer: Yes. Question: Do you remember the name of the show  
15 that was on at that time? Answer: I don't know what the name  
16 of the show that was on, but I was waiting on the show *Erotic*  
17 *Confessions* to come on at 1:40 a.m. on Cinemax. Question:  
18 Did you attempt to remove Sheila from the tub when you  
19 discovered her? Answer: Yes. During the 911 call the  
20 operator told me numerous times to remove her from the water.  
21 I tried lifting her and pulling but I couldn't get her out.  
22 Question: Is there anything else you'd like to add to this  
23 statement that would aid in this police investigation?  
24 Answer: It wasn't uncommon for Sheila to fall asleep in the  
25 tub with the jacuzzi jets on. Question: Can you read and



1 write without the aid of eyeglasses? Answer: Yes. Question:  
2 Was this statement given freely and voluntarily without any  
3 promises, threats or coercion? Answer: Yes. Question: I'm  
4 going to ask you to read this statement and if you find it to  
5 be true and correct, initial the bottom of each page and sign  
6 and date the last. Do you understand? Answer: Yes.

7 And then at the conclusion of the statement, once again  
8 it was printed up and I was with Mr. Braswell as he reviewed  
9 his statement and when he placed his signature, the date and  
10 time on this document.

11 Q All right. Thank you. About how long did this take?

12 A According to the time that's printed on the statement,  
13 we began the statement at 9:22 a.m. By the time we asked the  
14 questions and answers, had it printed and Mr. Braswell  
15 reviewed the document, it was 10:03 a.m. so 43 minutes, about  
16 40 minutes.

17 Q Okay.

18 MS. WEIRICH: Thank you. That's all with regard  
19 to the statement.

20 THE COURT: Y'all need to pass them back down,  
21 please. And do you still have this other document? Pass it  
22 back down too, please.

23 Q Thank you. Did the defendant ever mention the name  
24 Kristie Woods to you?

25 A No, he did not.

1 Q Where did you first hear that name?

2 A During a -- well, actually I first heard just the name  
3 Kristie from one of the witnesses that we interviewed during  
4 the initial investigation.

5 Q All right. Did you later hear it through something you  
6 were listening to?

7 A Yes, I did.

8 Q What were you listening to?

9 A It was a recorded conversation from the jail phones  
10 where the inmates are that was placed from Mr. Braswell to  
11 Kristie Woods, who was an employee at St. Jude Children's  
12 Hospital at the time.

13 Q All right. I'm going to pass you an envelope. Do you  
14 recognize that envelope?

15 A Yes, I do.

16 Q Is that your writing on it?

17 A Yes, it is.

18 Q What is contained inside of it?

19 A It's one Compact Disc that has several telephone --  
20 recorded telephone calls from the jail that Mr. Braswell  
21 placed from the jail to family members and friends, whatnot.

22 Q Have you listened to that Compact Disc?

23 A Yes, I have.

24 Q How long is it?

25 A On this particular disc there's probably 35 calls that

1 range anywhere from two to three minutes to 15 minutes. Some  
2 of the calls are 15 minutes long. Some are -- I mean, the  
3 calls vary, but I believe on this particular disc there are  
4 probably 35 calls.

5 Q All right. And you've listened to all of them?

6 A That is correct.

7 Q How did you get that?

8 A I obtained this from a Deputy Chambers. She works for  
9 the Shelby County Sheriff's Department and she was able to  
10 retrieve the calls. I put in a request for her to monitor Mr.  
11 Braswell's calls from the jail just as apart of this  
12 investigation and she downloaded them from her computer onto  
13 this disc.

14 Q And turned them over to you?

15 A That is correct.

16 Q Did you collect them from her and put them in that  
17 envelope?

18 A Yes, I did.

19 Q What did you do with that envelope and that disc?

20 A After I listened to the calls -- and this was not done  
21 over a period of a couple of days. It was done over a period  
22 of a couple of months. It took a while to listen to these  
23 calls. After I listened to the calls, I tagged the disc in  
24 our property room.

25 Q All right. Is it safe to say, Sergeant Merritt, that

1 in addition to being the case coordinator for the homicide of  
2 Sheila Braswell, you had other duties?

3 A That is correct.

4 Q You had other cases that you were both case coordinator  
5 for and just assisting on?

6 A That is right.

7 Q About how many homicide cases are you working at any  
8 given time?

9 A I mean, several. I mean, it's -- I know for instance,  
10 this particular year I've been in charge of ten cases on my  
11 own but then helping other investigations just we've -- I  
12 think we've had almost 150 murders in Memphis this year. So  
13 we stay very busy.

14 Q And is this year much different than years past as far  
15 as numbers of homicides?

16 A We're up about 35 this year.

17 MR. J. BAILEY: I object to relevance.

18 THE COURT: Overruled, it's relevant. I'll be  
19 glad to explain it if you'd like to approach.

20 MR. J. BAILEY: I accept Your Honor's ruling.

21 Q Is this year much different than other years?

22 A Yes, it's been busier.

23 Q Okay. Now that CD that you listened to, you said it  
24 took several months to listen to all the calls?

25 A Yes.

1 Q Did the defendant ever mention anything about erotic  
2 asphyxia to anybody?

3 A No.

4 Q And these are calls that he's placed to friends and  
5 family members?

6 A That is correct.

7 Q Ever mention anything about kinky sex?

8 A No.

9 Q Ever mention anything about the fact that his wife  
10 liked for him to put his hands around her neck while they had  
11 sex?

12 A No.

13 Q Did he mention Kristie Woods in there?

14 A Yes, he actually had a couple of conversations with Ms.  
15 Woods.

16 Q Did you try to contact Kristie Woods?

17 A Yes. I actually spoke with her on a couple of  
18 occasions and met with her once at St. Jude.

19 Q All right. Did you ask her to -- did you ever meet  
20 with her in the homicide office?

21 A No, I did not.

22 Q Did you ask her to come there?

23 A Yes, I did.

24 Q And she didn't?

25 A That is correct.

1 Q All right.

2 MS. WEIRICH: Judge, I'd ask that that CD be  
3 marked as Exhibit 28.

4 MR. J. BAILEY: Your Honor, before you do that,  
5 there's something I need to bring to the Court's attention  
6 before we mark it.

7 (Bench conference commenced.)

8 MR. J. BAILEY: Judge, I haven't heard the CD. I  
9 was given somewhat of a summary of it. I just want to make  
10 sure that there are no privileged communications on there.  
11 I've been through this issue in other courts and I just want  
12 to say why I bring this to the Court's attention. There is a  
13 recording that comes on, on every inmate call that says this  
14 call is subject to monitoring. However, this issue has been  
15 raised many times, particularly in the Federal Courts when  
16 they bring the conversations over there from over here. And  
17 if they're conversations either with Mr. Ballin, Mr. Jerry  
18 Stokes or myself, I would -- I would suggest to the Court that  
19 those are privileged. That is the only objection I would have  
20 to it.

21 THE COURT: Well, before we get to issues of the  
22 privilege, do you know are there any conversations?

23 MS. CARNESALE: Mr. Ballin had a few and Mr.  
24 Bailey but there is always a third party present, which is how  
25 the calls are made.

1 MS. WEIRICH: And let me just say the fact that I  
2 had -- this CD was given to them in their discovery and I was  
3 never once contacted to copy it for them. I was never given a  
4 CD to make a copy for them. I don't think it's my  
5 responsibility to track them down and remind them that they  
6 might want to listen to this. They knew about it.

7 MR. J. BAILEY: Nobody is suggesting that. I got  
8 a summary of it.

9 MS. WEIRICH: The summary is not all of it.  
10 That's my point.

11 THE COURT: But there was always a third party  
12 present when the calls were made. Who would that have been,  
13 somebody from the jail?

14 MS. CARNESALE: No. The defendant would make a  
15 call and then that person would three-way Mr. Ballin. He has  
16 to call collect. The defendant would call collect to a friend  
17 or family member and then they would make the call to the  
18 attorney.

19 MS. WEIRICH: There is actually a dead phone in  
20 the jail that is just for calling your attorney directly.  
21 That is not where this CD came from. This is the CD that's  
22 generated when they place a collect call to someone. If the  
23 attorney is called, it is done by that third party.

24 THE COURT: Okay. And so if -- if an inmate wants  
25 to make a direct call to an attorney, there is a separate

1 phone in the jail?

2 MS. WEIRICH: Yes, sir.

3 THE COURT: Specifically designated for that  
4 purpose?

5 MS. WEIRICH: And they are told, there are signs  
6 above the phone and below the phone letting them know this is  
7 the phone for calling your attorney.

8 MR. J. BAILEY: I'm not aware of that. And I  
9 don't dispute counsel. It might be that I just don't know.  
10 But I will state this to the Court that every time or at least  
11 every time I have been aware that he had somebody on the  
12 phone, I've told him and he has indicated to me that he asked  
13 that person to put the phone down while we talked. Now that's  
14 my understanding. You know, I have no way of always verifying  
15 that. I mean, because I'm not on the other end -- you know, I  
16 don't know. The nature of an inmate calling from the jail  
17 means that there might be someone else standing around or  
18 whatever. There is no privacy there. But if he's locked up  
19 and he needs to contact counsel by phone, that's the only way  
20 he knows that he can do it. I'm not aware of any special  
21 phones, although I can't say that there aren't any.

22 MS. WEIRICH: The defendant also says several  
23 times on these calls that he's aware he's being recorded  
24 because there is that announcement that comes on letting you  
25 know that.



1 THE COURT: Right. Right. Well, for several  
2 reasons I'm going to -- I guess you're requesting that those  
3 phone conversations be removed from this CD or not allowed  
4 into evidence?

5 MR. J. BAILEY: Yes or at least -- at least be  
6 restricted just to those that don't encounter Mr. Ballin, Mr.  
7 Stokes and myself.

8 THE COURT: Well, number one I find your request  
9 to come awfully late. Here we are ten witnesses into this  
10 trial. It's been pending for a year or the case has been  
11 pending for a year. It's been in here for probably six  
12 months. I remember when it was first arraigned, you announced  
13 that you didn't need a report date, you just needed a trial  
14 date. So, I mean, you were focusing on the trial from the  
15 outset as everyone has been. There are always third parties  
16 to these conversations at least initially. Now, whether third  
17 parties kept the phone to their ear the entire time or not, I  
18 guess it's impossible to know and say. But clearly, there  
19 were always third parties to these conversations at the outset  
20 because that's how the attorney would get pulled into it.

21 There were also separate, apparently from Ms. Weirich's  
22 statements as an officer of the court, separate phones in the  
23 jail that do not require going through a third party that  
24 allow an inmate to make a direct call to an attorney. And  
25 apparently, according to Ms. Weirich's statement as an officer

1 of the court, there is also an acknowledgment by your client  
2 on more than one occasion in various conversations recorded on  
3 this CD indicating that he's fully aware that he is being  
4 recorded, which what I think effectively waive any claim to  
5 attorney-client confidentiality.

6 So there are a variety of reasons for concluding that  
7 any claim to any attorney-client privilege has been waived by  
8 your client's acknowledgment, by his actions, by his decision  
9 to use this phone as opposed to the other phone, by bringing  
10 third parties into it, and by the fact that you have had  
11 access at least to this information since this case began and  
12 we're just now approaching the subject. For all those  
13 reasons, I'm going to deny your request that those portions of  
14 this CD be excised from it and I'll note your exception.

15 (Said bench conference concluded.)

16 THE COURT: Exhibit 27.

17 (Exhibit No. 27 was marked and filed.)

18 Q Do you remember, Sergeant Merritt, a particular phone  
19 call when the defendant was giving Kristie Woods instructions  
20 on how to communicate with him?

21 A That is correct.

22 Q What did he tell her?

23 A I remember that he told her that she could write  
24 letters to him but to have the letters sent, I believe, to the  
25 address of his parents or his mother's address on Calvert

1 Street. If I remember correctly, he wanted her to come and  
2 visit him in jail, but I believe his jail visitor -- she was  
3 not on the list and he was going to have to refer to her as a  
4 cousin or something like that in order to make the visitation  
5 legal -- not legal but in order for her to be able to visit.

6 Q Do you recall some conversations where he referred to  
7 her or other people on the phone refer to her as "The  
8 Soldier"?

9 A I remember that particular terminology during the --  
10 during some of the very initial conversations that I listened  
11 to, but we had no idea who that person was at the time. It  
12 was just "The Soldier" about "The Soldier" being underground  
13 or something like that or "The Rabbit" being underground or  
14 something to that effect.

15 Q Could you tell from the context and when they were  
16 talking about "The Soldier" being underground what they meant  
17 or what the defendant meant?

18 A As we got further into the investigation and learned  
19 more about Ms. Woods, I believe that -- just that he was  
20 referring to her.

21 Q But what did he mean by "underground"? Do you know?

22 A By us not being able to find her, to locate her.

23 Q Was he inquiring whether or not she was underground?

24 A From the nature of the conversations on the -- on those  
25 first initial calls, he was asking, I believe -- I don't want

1 to say who it was because I can't recall -- but the nature of  
2 the conversation he was wanting to know if "The Soldier" was  
3 underground. And after we learned Ms. Woods' identity, we  
4 assumed that he was referring to her.

5 Q Okay. Do you remember any conversation about life  
6 insurance?

7 A Yes.

8 Q What do you remember and who was the conversation  
9 between?

10 A It was between Mr. Braswell and I believe his mother.  
11 They were discussing trying to -- I think Mr. Braswell was  
12 talking about life insurance that he had through the Board of  
13 Education and there was some topic of conversation -- I  
14 believe it came from Mr. Braswell's mother -- about not being  
15 able to get the life insurance at the time because of it being  
16 a murder investigation and that type of thing.

17 Q All right. What is his mother's name? Do you  
18 remember?

19 A I could look at the statement because I know his  
20 mother's name is on the statement that I took but I can't --  
21 is that okay?

22 Q Sure, if that would refresh your memory?

23 A Right, Mary Wallace.

24 Q Did you discover in your investigation, Sergeant  
25 Merritt, that in addition to being -- as he put on his witness

1 statement an assistant principal -- did he have another  
2 business interest, the defendant?

3 A Yes, he did. I believe he -- through the jail  
4 conversations that I listened to, apparently he was a manager  
5 or had some type of an ownership in a -- I don't know if I'd  
6 call it a nightclub but it was some type of -- apparently, it  
7 was a hall that they would rent out for parties or banquets or  
8 whatnot. And through some of the conversations, he's having  
9 conversation with people trying to decide if he's going to  
10 keep that banquet hall open, if he's going to sell it or shut  
11 it down or what. So there was some -- quite a bit of  
12 conversation about that.

13 Q Do you remember the name of it?

14 A I know there was -- it was a Rough Riders Motorcycle  
15 Club. I don't know if that's the same as the banquet hall  
16 conversation or what, but I know he had some dealings with  
17 Rough Riders, like the motorcycle club guys that got together  
18 and would ride or, you know, socialize or whatever.

19 Q All right.

20 MS. WEIRICH: May I have one moment, Your Honor?

21 THE COURT: You may.

22 Q Did he ever mention in any of these phone calls that  
23 you listened to over this three-month period to any of these  
24 friends or family members that he's talking to, this is all  
25 just a big misunderstanding? Y'all have got to get me out of

1 here?

2 A No, he didn't.

3 Q Did he ever mention his wife wanted to be choked that  
4 night?

5 A No, he did not.

6 Q Did he mention anything about choking his wife?

7 A No, he did not.

8 MS. WEIRICH: Pass the witness.

9 THE COURT: Mr. Bailey.

10 MR. W. BAILEY: Would Your Honor indulge me?

11 MR. J. BAILEY: No questions, Your Honor.

12 THE COURT: You may step down. Call your next  
13 witness.

14 MS. WEIRICH: State calls Officer Miller.

15

16 LIEUTENANT MILLER

17 called as a witness, being first duly sworn, was examined and  
18 testified as follows:

19 DIRECT EXAMINATION

20 BY MS. WEIRICH:

21 Q Good afternoon. And I apologize, you are a Sergeant,  
22 aren't you?

23 A Lieutenant.

24 Q Lieutenant, I'm sorry. Again, I'm sorry. Would you  
25 please tell the jury your name?

1 A I'm Lieutenant Mark Miller.

2 Q Where do you work?

3 A I'm currently assigned to the Felony Assault Unit.

4 Q And where -- how long have you been there?

5 A Felony Assault since its inception in July this year.

6 Q All right. Where were you before that?

7 A Homicide.

8 Q How long were you in homicide?

9 A Almost four years.

10 Q All right. Did you and Sergeant Merritt work on a case  
11 together involving the homicide of Sheila Braswell?

12 A We did.

13 Q What were your primary responsibilities?

14 A I assisted Sergeant Merritt in an interview of Mr.  
15 Braswell and then I went out and arrested Mr. Braswell.

16 Q Okay. Let me start with the first part first.

17 A Okay.

18 Q Statement from the defendant. The jury has had the  
19 statement read to them by Sergeant Merritt. Were you present  
20 during the entire conversation with the defendant and the  
21 formalization of that statement?

22 A I was.

23 Q Where did it take place?

24 A The interview took place in the interview room and the  
25 formal statement was given in the secretary's office.

1 Q Okay. And who was present in the interview room?

2 A Myself, Sergeant Merritt and the defendant.

3 Q The door shut?

4 A Yes, ma'am.

5 Q Y'all were alone the three of you?

6 A Yes.

7 Q Nobody was watching? Nobody was listening?

8 A No.

9 Q Did the defendant at any time tell you, Hey, I've got  
10 to tell y'all what really went on that night at our house. We  
11 were having kinky sex where my wife liked to be choked and I  
12 went a little too far and she died in my arms?

13 A No, ma'am, he did not.

14 Q He mention anything about that?

15 A No, ma'am.

16 Q Did he mention anything about erotic asphyxia?

17 A No, ma'am.

18 Q Did he have the opportunity?

19 A Several times.

20 Q Did he mention anything about his wife liking rough  
21 sex?

22 A No, ma'am.

23 Q Did he have the opportunity?

24 A Yes, ma'am.

25 Q And were you present as well during the entire course



1 of the formalization of the statement, what has been marked as  
2 --

3 MS. WEIRICH: I thought it had been marked.

4 THE COURT: The statement has not been marked into  
5 evidence.

6 MS. WEIRICH: Okay. Could we do that at this  
7 time?

8 THE COURT: Okay.

9 (Exhibit No. 28 was marked and filed.)

10 Q During the entire formalization of that, Lieutenant  
11 Miller, were you present?

12 A I was.

13 Q And again, how long a process was that?

14 A We started at 9:22 in the morning and it was signed at  
15 10:03 a.m.

16 Q All right. Was this defendant given an opportunity to  
17 review that?

18 A Yes, he was.

19 Q Before signing it?

20 A Yes, he was.

21 Q And is that a process where you're just kind of  
22 standing over him, going come on, come on, we've got other  
23 things to do, other places to be?

24 A No, ma'am. He's given the statement, a red pen and as  
25 much time he needs.

1 Q Do you see the defendant in the courtroom this morning  
2 -- this afternoon, rather?

3 A I do.

4 Q Would you point to him for me, please?

5 A He's in the dark suit on the front row sitting by Mr.  
6 Bailey.

7 MS. WEIRICH: Let the record reflect he's  
8 identified the defendant.

9 Q Was he given all the time he needed to make changes to  
10 that statement if he needed to?

11 A He was and in fact did make several changes.

12 Q Okay. Did any of the changes have to do with erotic  
13 asphyxia?

14 A No, they did not.

15 Q Or rough sex?

16 A No, they did not.

17 Q Or this was just a night of passion that went too far?

18 A No.

19 Q On November 6th, 2004, was the defendant placed under  
20 arrest?

21 A He was.

22 Q By whom?

23 A By myself.

24 Q All right. Tell us about that. Did you go to his  
25 house and arrest him?

1       A       I received a call that the defendant was at a football  
2 game at Bolton High School. I went out to Bolton High School,  
3 waited in the parking lot, notified the Sheriff's Department  
4 that I was there and that I needed assistance. I saw Mr.  
5 Braswell come out of the stadium and into the parking lot. He  
6 walked around for a few minutes. And as he was headed back  
7 towards the stadium, I stopped him and placed him under  
8 arrest.

9       Q       All right. Were you in plain clothes as you are today  
10 or were you in uniform?

11      A       No, I was dressed like I am now.

12      Q       Were you in a marked car?

13      A       No, ma'am.

14      Q       Okay. About what time of day was this? Do you  
15 remember?

16      A       It was early in the morning, 8:30, somewhere around  
17 there, about that time.

18      Q       You said you needed -- you indicated, rather, that you  
19 notified the Sheriff's Department that you were out there.  
20 Why did you have to do that?

21      A       Because the high school is in the county, not in the  
22 city. I needed a car to transport Mr. Braswell back to the  
23 office.

24      Q       So he didn't ride in your car?

25      A       No, he did not.

1 Q He rode in the Sheriff's Department car?

2 A That's correct.

3 Q Back to the office here in this building?

4 A That's correct.

5 Q All right.

6 MS. WEIRICH: I'll pass the witness, Your Honor.

7 THE COURT: Mr. Bailey.

8 MR. J. BAILEY: Would Your Honor indulge us just  
9 one second?

10

11 CROSS-EXAMINATION

12 BY MR. W. BAILEY:

13 Q Lieutenant Miller, one thing I want to get clear. You  
14 knew he was at the football game because he was there with his  
15 two children?

16 A That's correct, sir.

17 Q And he, I believe, shared with you that he wanted to  
18 keep things normal as he could. That's why he was there with  
19 his children.

20 A That's correct, sir.

21 Q And you mentioned that he didn't mention the choking  
22 game of sexual arousal, that is erotic asphyxia or kinky sex.  
23 And the fact is you never asked him about that, did you?

24 A No, sir.

25 MR. W. BAILEY: No further questions.

REDIRECT EXAMINATION

1

2 BY MS. WEIRICH:

3 Q Did you ask him about other things?

4 A Yes, ma'am.

5 Q Did you ask him how his wife ended up dead in the  
6 bathtub?

7 MR. W. BAILEY: Your Honor, we would object.  
8 That's leading.

9 THE COURT: Overruled.

10 Q Did you ask him how his wife ended up dead in the  
11 bathtub?

12 A Yes, ma'am.

13 Q Is that statement there full of questions that you're  
14 asking him?

15 A Yes, ma'am.

16 Q Is the -- one of the final questions, Is there anything  
17 else you'd like to tell us that could help us?

18 A Yes, ma'am.

19 Q Did you ask him that question?

20 A I did.

21 Q And what did he tell you?

22 A His answer was: It wasn't uncommon for Sheila to fall  
23 asleep in the tub with the jacuzzi jets on. That's all he  
24 added.

25 Q Did he nudge you under the table and say there's really

1 more I've got to tell you but I'm too embarrassed?

2 A No, ma'am, he did not.

3 MS. WEIRICH: I don't have anything else.

4 THE COURT: You may step down. Call your next  
5 witness.

6 MS. WEIRICH: May we approach, Judge?

7 THE COURT: You may.

8 (Bench conference commenced.)

9 MS. WEIRICH: Our next witnesses are here but we  
10 would like a quick break to talk with them briefly before we  
11 put them on. I didn't know how long Your Honor wanted to go  
12 tonight.

13 THE COURT: Well, I'm saying about 30 more  
14 minutes. Do you have a witness or are the next witnesses  
15 particularly long witnesses?

16 MS. WEIRICH: They could be, yeah. I just don't  
17 know. They could be.

18 THE COURT: Why don't we stop at this point then  
19 rather than launch into a lengthy witness this late in the  
20 day. We'll do that. We'll stop at this point.

21 (Said bench conference concluded.)

22 THE COURT: All right. Ladies and gentlemen, we  
23 will stop for the day at this time. We will resume the trial  
24 tomorrow morning at nine o'clock. As always, do not discuss  
25 the case in any way among yourselves or with anyone else

1 overnight. We'll see you tomorrow morning at nine o'clock.

2 Let me make mention of this as well. Obviously, you  
3 are all welcome to take notes. You have note pads and pens  
4 and I will remind you of this when I read the law to you at  
5 the end of the trial, but the notes that you take are for your  
6 own individual use only. They're not to be shown to others,  
7 nor referred to as authority during deliberations, but they're  
8 for your own individual use to refresh your own individual  
9 memory. But having said that, we'll see you tomorrow morning  
10 at nine o'clock. You can leave the note pads right in the  
11 chairs. That will be fine.

12 (Jury out.)

13 THE COURT: Take him out, please. You may adjourn  
14 court.

15  
16 (Court was adjourned until 9 a.m.,  
17 Wednesday, December 7, 2005.)

18

19

20

21

22

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24

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(END OF VOLUME TWO)